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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2013.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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DIVISION I. GOVERNMENT OF DISTRICT.

TITLE 2. GOVERNMENT ADMINISTRATION.

Chapter 6. Codification and Publication of Acts, Resolutions, Rules, and Orders.

Subchapter I. General Provisions.

§ 2-603. Statutes-at-Large.

(a) Beginning in 2013, within 45 days of the end of each Council year, the Council shall compile and publish online the District of Columbia Statutes-at-Large which shall include in separate chronological order:

(1) Council acts, including emergency acts adopted after December 31, 1986, which become law during that Council year; and

(2) Council resolutions adopted during that Council year, except ceremonial resolutions adopted after December 31, 1986.

(b) The 1st publication of the District of Columbia Statutes-at-Large shall also contain in a separate part each regulation and resolution of the District of Columbia Council in chronological order.

(c) Repealed.

(d) The District of Columbia Statutes-at-Large shall contain a certificate by the General Counsel to the Council of the District of Columbia stating that it contains all the documents required to be published pursuant to this section as of the date of the certificate.

(Oct. 8, 1975, D.C. Law 1-19, title II, § 205, 22 DCR 2062; Mar. 6, 1979, D.C. Law 2-153, § 6(c), 25 DCR 6960; Feb. 18, 1988, D.C. Law 7-78, § 2, 34 DCR 7956; Sept. 20, 2012, D.C. Law 19-168, § 1112, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168, in the introductory language of (a), added "Beginning in 2013," substituted "the Council" for "the Mayor," and substituted "publish online" for "publish"; repealed (c), which read: "The Mayor shall make copies of the District of Columbia Statutes-at-Large available to the public at a reasonable cost calculated to cover the costs of its compilation, publication, and distribution"; and added (d).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Subchapter II. District of Columbia Office of Documents.

§ 2-611. Established; appointment and qualifications of Administrator; duties; compensation of Administrator; authorization of positions and fundings; transfer of property, records, and unexpended balances of appropriated funds.

(a) Part IV D of Organization Order No. 2, Commissioner's Order No. 67-23, December 13, 1967, creating the Secretariat within the executive office of the Mayor, is amended:

(1) By striking subsection 1. k.; and

(2) By transferring, as provided in this subchapter, to the District of Columbia Office of Documents all of the powers, duties, and functions assigned to the Secretariat under any provision of law relating to the preparation, certification, and publication of the District of Columbia Register and all District of Columbia rules, regulations, codes, ordinances, and any amendments thereto.

(b) There is hereby established within the executive office of the Mayor (created by Organization Order No. 2, dated December 23, 1967) a District of Columbia Office of Documents which shall be under the supervision and control of an Administrator appointed by the Mayor without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

(c) The District of Columbia Office of Documents shall provide for the prompt preparation, editing, printing, and public distribution of the District of Columbia Register and the District of Columbia Municipal Regulations in accordance with this subchapter.

(d) The Administrator of the District of Columbia Office of Documents (hereinafter also referred to as "Administrator") shall be a member of the District of Columbia Bar. The Administrator shall appoint such employees within the District of Columbia Office of Documents as may be necessary for the prompt and efficient performance of the functions of the Office and for which sufficient appropriation is authorized and provided.

(e) The Administrator shall be paid at a per annum gross rate not to exceed the highest step level of GS-15 of the General Schedule.

(f) Repealed.

(g) All property, records, and unexpended balances of appropriated funds in the Office of the Secretariat which are currently allotted for legal publications,

codification, and the District of Columbia Register functions shall be transferred to the District of Columbia Office of Documents. All rules, regulations, documents, and other materials assembled or developed by the Mayor's municipal code compilation project shall be transferred to the Office of Documents.

(Mar. 6, 1979, D.C. Law 2-153, § 2, 25 DCR 6960; Mar. 3, 2010, D.C. Law 18-111, § 1021, 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, § 1114(a), 59 DCR 8025.)

Section references. — This section is referenced in § 2-551 and § 2-552.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "the District of Columbia Register and the District of Columbia Municipal Regulations" for "District of Columbia Statutes-at-Large, the District of Columbia Register, and the District of Columbia Municipal Regulations" in (c).

Legislative history of Law 19-168. — See note to § 2-603.

§ 2-612. Duties of Administrator.

The Administrator of the District of Columbia Office of Documents shall:

(1) Supervise, manage, and direct the preparation, editing, printing and public distribution of all legal publications of the District of Columbia government including the District of Columbia Register and the District of Columbia Municipal Regulations in accordance with this subchapter;

(2) Promulgate appropriate rules of procedure to implement the provisions of this subchapter;

(3) With the assistance of the Office of the Corporation Counsel, the officer designated by the Chairman of the Council, or legal counsels to agencies and other governmental entities, certify the promulgation, adoption, or enactment of documents to be published in accordance with this subchapter;

(4) Coordinate with the officer designated by the Chairman of the Council the drafting and preparation of legislation to be published in the District of Columbia Register and the District of Columbia Municipal Regulations;

(5) Establish editorial standards for the removal of unnecessary sex-based terminology in documents and for the numbering, grammar, and style of all documents to be published pursuant to this subchapter;

(5A) Establish editorial standards for the use of respectful language in documents as required under § 2-632;

(6) Except with respect to acts or resolutions of the Council, reject for publication proposed rules, regulations, orders, administrative issuances, or ordinances which fail to comply substantially with the publication requirements authorized by this subchapter;

(7) In accordance with applicable law, procure contracts for the preparation and publication of documents pursuant to this subchapter; and

(8) Instruct promulgators of documents to be published under this subchapter concerning the requirements established by the Administrator under this subchapter and the means to comply with those requirements.

(Mar. 6, 1979, D.C. Law 2-153, § 3, 25 DCR 6960; Sept. 29, 2006, D.C. Law 16-169, § 6, 53 DCR 6223; Mar. 25, 2009, D.C. Law 17-353, § 123, 56 DCR 1117; Sept. 20, 2012, D.C. Law 19-168, § 1114(b), 59 DCR 8025.)

Section references. — This section is referenced in § 6-1408.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "the District of Columbia Register and the District of Columbia Municipal Regulations" for "District of Columbia Statutes-at-Large, the District of Columbia Register, and the District of Columbia Municipal Regulations" in (1).

Legislative history of Law 19-168. — See note to § 2-603.

Subchapter IV. Respectful Language Modernization.

§ 2-632. Respectful language.

(a) On or after September 29, 2006, all new and revised sections of the District of Columbia Official Code, all new, revised, or republished District regulations, rules, policies, or publications and all internet publications shall, when referring to persons with disabilities:

(1) Avoid any use of following terms, except as required by any law or regulation: "afflicted," "cripple," "crippled," "defective," "feebleminded," "handicapped," "handicap," "idiot," "lunatic," "imbecile," "insane," "invalid," "maimed," "moron," "suffering," "wheelchair user," or "wheelchair bound";

(2) Use "person," "people," "individual," "individuals," "adult," "adults," "child," "children," or "youth" in sentence construction so that the language refers to individuals:

(A) With disabilities or with conditions that result in disability;

(B) Who have disabilities or who have conditions that result in disability; or

(C) Who use or who need assistive technology.

(a-1)(1) Beginning on Sept. 26, 2012, all new and revised sections of the District of Columbia Code, all new, revised, or republished District regulations, rules, policies, or publications, and all internet publications shall avoid the use of the terms "mental retardation," "mentally retarded," and "retarded," except as required by any law or regulation, and further:

(A) Where the term "mental retardation" is used, the term "intellectual disability" or "intellectual disabilities" shall be substituted;

(B) Where the term "intermediate care facility for persons with mental retardation" is used, the term "intermediate care facility for persons with intellectual or developmental disabilities" shall be substituted;

(C) Where the term "qualified mental retardation professional" is used, the term "qualified developmental disability professional" shall be substituted; and

(D) Where the term "is at least moderately mentally retarded" is used, the term "has at least a moderate intellectual disability" shall be substituted.

(a-2) Beginning 6 months after Sept. 26, 2012, all policies and signage shall comply with subsection (a-1) of this section.

(a-3) Upon the earlier of reprinting or after one year following Sept. 26, 2012, all publications shall comply with subsection (a-1) of this section.

(b) On or after 6 months following September 29, 2006, all policies and signage shall comply with subsection (a) of this section.

(c) Upon the earlier of reprinting or September 30, 2007, all publications shall comply with subsection (a) of this section.

(d) No statute, regulation, or rule shall be invalid because it does not comply with this section.

(Sept. 29, 2006, D.C. Law 16-169, § 3, 53 DCR 6223; Sept. 26, 2012, D.C. Law 19-169, § 6(a), 59 DCR 5567.)

Section references. — This section is referenced in § 2-552, § 2-553, and § 2-612.

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 added (a-1), (a-2), and (a-3).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 2-633. Report. [Repealed].

Repealed.

(Sept. 29, 2006, D.C. Law 16-169, § 4, 53 DCR 6223; Sept. 26, 2012, D.C. Law 19-169, § 6(b), 59 DCR 5567.)

Legislative history of Law 19-169. — See note to § 2-632.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

CHAPTER 12. BUSINESS AND ECONOMIC DEVELOPMENT.

Subchapter VIII. Business Improvement Districts.

PART A.

GENERAL PROVISIONS.

§ 2-1215.15. Collection and disbursement of BID taxes.

(a) Within 10 days of its date of registration, and 90 days in advance of the beginning of each fiscal year, each BID shall provide the CFO with a preliminary BID tax roll, which shall include, for each property subject to the relevant BID tax, the square number, the lot number, the name of the BID, the period of time for the BID tax, and the amount of the BID tax for that property for that period of time. In addition to the preliminary tax roll, the BID shall also provide supporting information which describes the information relied upon by the BID in preparing the preliminary tax roll. The supporting information shall be based on information provided to the BID by the Office of Taxation and Revenue and any other reliable source. The preliminary BID tax roll and the supporting information shall be prepared in such form as may be prescribed by regulation by the CFO. In the event that a BID fails to provide the preliminary BID tax roll and the supporting information within the time period specified by this subsection, the BID taxes shall be collected at the time of the next regularly scheduled tax bill.

(b) During a control year, the CFO, and in any other year, the Mayor shall examine the preliminary BID tax roll and backup information and shall make any changes it deems are required by this subchapter. During a control year, the CFO, and in any other year, the Mayor, shall certify a final BID tax roll no later than 30 days prior to the billing dates described in subsection (e) of this section.

(c) Except as otherwise provided by this subchapter, BID taxes shall be collected by the CFO during a control year, and by the Mayor in any other year. Except as otherwise provided by this subchapter, BID taxes shall be collected in the same manner as real property taxes are collected. The CFO during a control year, and the Mayor in any other year, may contract with a financial institution having assets in excess of $50 million or a BID (if the BID tax is related to such BID) to perform services for the District in connection with the collection and distribution of BID taxes.

(d) BID taxes shall be effective as of the date a BID is registered or deemed registered by the Mayor pursuant to § 2-1215.06, except for BID taxes that

become effective pursuant to § 2-1215.04(f) or (g). Any changes to the BID tax adopted pursuant to § 2-1215.08 shall be effective as of the first day of the subsequent fiscal year. BID taxes related to properties affected by a geographic expansion of the BID shall be effective as of the date such an expansion becomes effective pursuant to § 2-1215.09.

(e) BID taxes shall be payable in advance and shall cover the 6 months following the due date of the billing described by paragraph (1) of this subsection; provided however, in the case of the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period, BID taxes shall be payable as described by paragraph (2) of this subsection.

(1) BID taxes shall be due and payable semiannually in 2 equal installments, the first being paid on or before September 15 preceding the real property tax year for the period October 1 through March 31, and the second installment to be paid on or before March 31 of the real property tax year for the period April 1 through September 30.

(2) BID taxes for the period of time between the effective date of a BID's registration and the last day of the applicable 6-month period shall be collected through a special bill, if the relevant BID application requests such a special bill, to be mailed by the District or its contractee within 30 days of the effective date of the BID tax with such special bill due for payment 45 days from the date of such special bill, or if the BID application does not request such a special bill, the BID taxes for such period of time shall be billed at the time of the next practicable regularly scheduled property tax bill pursuant to paragraph (1) of this subsection, along with any other BID taxes collectible at the time of such billing.

(f) If at any time after the dates provided by subsection (e) of this section any BID tax is not paid within the time prescribed, there shall be added to the BID tax a penalty of 10% of the unpaid amount plus interest on the unpaid amount at the rate of 1 ½% per month or portion of a month until the BID tax is paid.

(g) If any BID tax shall remain unpaid after the expiration of 60 days from the date such tax became due, the property subject to such BID tax may be sold at the next ensuing tax sale in the same manner and under the same conditions as property sold for delinquent real property taxes, if such BID taxes with interest and penalties thereon shall not have been paid in full prior to said sale. If an accounting is made in accordance with, and subject to, § 47-1340(f), of the District of Columbia Code, the proceeds from such sale shall be applied towards such delinquent BID taxes together with interest and penalties thereon, including costs associated with such sale; provided, that the proceeds from such sale shall be applied first to any delinquent real property taxes (and penalties and costs associated therewith), and then, to the extent a required accounting is made in accordance with § 47-1340(f), in the following order of priority: any delinquent water and sewer charges; and any delinquent litter control nuisance fines, in accordance, respectively, with §§ 47-1303.04, 34-2407.02, 34-2110 and 8-807. The proceeds shall then be applied towards any other delinquent tax, aside from the BID tax, owed by the owner of such property. The proceeds due for such delinquent BID taxes with interest and

penalties thereon shall then be delivered to the collection agent for deposit into the relevant special account within 30 business days of its receipt by the District or the BID pursuant to § 2-1215.17.

(h) The Treasurer of the District shall establish a special account of the District for each BID registered pursuant to § 2-1215.06. Each such special account shall be established by the Treasurer within 20 days of the date of the BID's registration pursuant to § 2-1215.06.

(1) Within 10 business days of the date of establishment of any such special account, the Treasurer shall contract with the existing real property tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Upon the termination of any such contract, the District shall contract with the successor tax collection agent of the District to collect the BID taxes and to administer each special account created pursuant to this subsection for such period of time that said tax collection agent is responsible for collecting the real property taxes of the District. Such transactions shall not be subject to Chapter 2 of this title.

(2) Each special account created pursuant to this section shall consist solely of funds deposited pursuant to this section, which funds shall at no time be commingled with the general fund or any other fund of the District. The following shall be deposited into the special account associated with a BID within 3 business days of its receipt by the collection agent:

(A) All BID taxes collected pursuant to subsections (a) through (e) of this section;

(B) All penalties and interest collected pursuant to subsection (f) of this section; and

(C) Any proceeds from collections pursuant to subsection (g) of this section.

(3) The funds received as payment of a BID tax shall be applied first towards any real property taxes owed and to any delinquent real property taxes (and penalties and costs associated therewith) in the manner described by § 47-1303.04(g), before such payment is applied to the BID tax and any associated penalty and interest.

(i) The District may recover costs from the special accounts only as specifically provided by this subsection. Any recovery of funds from a special account shall be only by payment from the collection agent to the District.

(1) The collection agent shall make a payment to the District equal to the amount of any tax refund associated with such special account that the District documents is required pursuant to District law; provided, that to the extent that a special account lacks the funds needed to make a payment pursuant to this paragraph, the collection agent shall make said payment to the District as soon as sufficient funds are deposited into such special account; provided further, that a BID corporation shall have standing to participate in any administrative proceeding or to intervene in any judicial proceeding for the refund of BID taxes associated with such BID.

(2) The collection agent shall make a monthly accounting to each BID of

any payments to the District from the special account associated with that BID.

(j) Each month, prior to the 5th day of the month, the collection agent shall make a payment to the BID associated with the special account, which payment shall consist of all of the funds in such account as of the end of the final day of the preceding calendar month; provided, that the collection agent shall first provide for the payment of costs pursuant to subsection (i) of this section; provided further, that the collection agent shall withhold a portion of such funds, not to exceed 2% of the total annual BID taxes associated with such account when the BID taxes are based on assessed value or ½ of 1% of the total annual BID taxes associated with such account when BID taxes are based on square footage or per building, that the Treasurer of the District finds is needed as a reserve fund to pay any tax refund that may be required pursuant to District law.

(k) Each month, the collection agent shall provide a statement regarding the transactions in such special account to the Treasurer of the District and to the BID associated with such special account.

(l)(1) No funds may be withdrawn from a special account established pursuant to this section except as specifically provided in subsections (i) and (j) of this section. The District and the collection agent shall not pledge the funds in any special account established pursuant to this section under any circumstances, except that the funds in any such account shall be pledged if and when requested by the BID associated with such account as security for bonds or other borrowing by such BID.

(2) Authority to obligate or expend any taxes collected pursuant to this subchapter shall be subject to the appropriations process.

(m) The BID shall be the beneficial owner of the funds in the special account associated with that BID.

(May 29, 1996, D.C. Law 11-134, § 15, 43 DCR 1684; renumbered as § 16, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Apr. 12, 2000, D.C. Law 13-91, § 127, 47 DCR 520; Apr. 12, 2000, D.C. Law 13-91, § 127, 47 DCR 520; June 9, 2001, D.C. Law 13-305, § 508(a), 48 DCR 334; Oct. 22, 2012, D.C. Law 19-180, § 2(a), 59 DCR 9421.)

Section references. — This section is referenced in § 2-1215.09 and § 2-1215.17.

Effect of amendments.

The 2012 amendment by D.C. Law 19-180 rewrote (e)(1).

Emergency legislation.

For temporary (90 day) amendment of section, see § 2(a) of Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

For temporary amendment of (e)(1), see § 2(a) of the Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

Legislative history of Law 19-180. — Law 19-180, the "Downtown BID Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-764. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 27, 2012, it was assigned Act No. 19-433 and transmitted to Congress for its review. D.C. Law 19-180 became effective on Oct. 22, 2012.

§ 2-1215.20. Maintenance of base level of city services.

(a) The District government shall not eliminate or reduce the level of any

services customarily provided in the District to any similar geographic area because such area is subject to a BID, and shall continue to provide its customary services and levels of each service to such area notwithstanding that such area is or may be encompassed in a BID unless a reduction in service is part of a District-wide pro rata reduction in services necessitated by fiscal considerations or budgetary priorities.

(b) Notwithstanding subsection (a) of this section, beginning in fiscal year 2013, the Mayor shall not issue a grant using funds from the Commercial Revitalization Assistance Fund, established by § 2-218.76, for the purpose of providing commercial revitalization services or Clean Team services, including ambassador services and the removal of trash, graffiti, illegal posters, and snow within a geographic area that is subject to a BID."

(May 29, 1996, D.C. Law 11-134, § 20, 43 DCR 1684; renumbered as § 21, Oct. 8, 1997, D.C. Law 12-26, § 2, 44 DCR 4320; Sept. 20, 2012, D.C. Law 19-168, § 2142, 59 DCR 8025.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-168 added the (a) designation; and added (b).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

PART B.

BID FORMATIONS.

§ 2-1215.51. Downtown BID.

(a) The formation of the Downtown BID, which shall include all nonexempt real property within the geographic areas set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the earlier of the expiration date of this subchapter or the termination or dissolution of the BID.

(b) The Downtown BID shall be comprised of all nonexempt real property within the following areas:

(1) The geographic area bounded by a line that starts at the center of the street at the intersection of Massachusetts Avenue, N.W., and the western edge of I-395; and continues south along the western edge of I-395 to the center of D Street, N.W.; and continues east along the center of D Street, N.W., to the eastern edge of the Department of Labor Building; and continues south along the eastern edge of the Department of Labor Building to the center of C Street, N.W.; and continues west along the center of C Street, N.W., to the center of 2nd Street, N.W.; and continues south along the center of 2nd Street, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of 15th Street, N.W.; and continues north along the center line of 15th Street, N.W., to the center of

Pennsylvania Avenue, N.W.; and continues west along the center line of Pennsylvania Avenue, N.W., to the western property line of 1503 Pennsylvania Avenue, N.W.; and continues north along the building edge of 1503 Pennsylvania Avenue, N.W., to the center of the north-south alley in Square 221; and continues north along the center line of the north-south alley in Square 221 to the center of H Street, N.W.; and continues west along the center line of H Street, N.W., to the center of 16th Street, N.W.; and continues north along the center line of 16th Street, N.W., to the southern edge of Thomas Circle; and continues counterclockwise around the center line of Thomas Circle to the center point of Massachusetts Avenue, N.W.; and continues southeast along the center line of Massachusetts Avenue, N.W., to the center of 9th Street, N.W.; and continues north along the center line of 9th Street, N.W., to the center of N Street, N.W.; and continues east along the center line of N Street, N.W., to the center of the north-south alley in Square 424; and continues south along the center line of the north-south alley in Square 424 to the center of M Street N.W.; and continues east along M Street N.W., to the center of 7th Street, N.W.; and continues south along the center line of 7th Street, N.W., to the center of K Street, N.W.; and continues east along the center line of K Street, N.W., to the center of 6th Street, N.W.; and continues south along the center line of 6th Street, N.W., to the center of Massachusetts Avenue, N.W.; and continues east along the center line of Massachusetts Avenue, N.W., to the center of the street at the intersection of Massachusetts Avenue and the western edge of I-395, is hereby authorized and the BID taxes specified below are hereby imposed through the expiration date of this subchapter or the earlier termination or dissolution of the BID, subject to the requirements of this subchapter, including the BID application and BID registration procedures established pursuant to §§ 2-1215.04(a), 2-1215.05, and 2-1215.06.

(2) The geographic area bounded by a line that starts at the intersection of the center of Massachusetts Avenue, N.W., and the western edge of I-395; and continues southeast along the center of Massachusetts Avenue, N.W., to the center of North Capitol Street; continues north along the center of North Capitol Street to the center of K Street; and continues east along the center of K Street, N.E., to the eastern edge of the eastern sidewalk on First Street, N.E.; and continues south along the eastern edge of the eastern sidewalk on First Street, N.E., to the center of Massachusetts Avenue, N.E.; and continues northwest along the center line of Massachusetts Avenue, N.E., to the center of North Capitol Street; and continues south along the center line of North Capitol Street to the center line of Louisiana Avenue; and continues southwest along the center line of Louisiana Avenue, N.W., to the center of Constitution Avenue, N.W.; and continues west along the center line of Constitution Avenue, N.W., to the center of Second Street, N.W.; and continues north along the center line of Second Street, N.W., to the center of C Street, N.W.; and continues west along the center line of C Street, N.W., to the eastern edge of the Department of Labor Building; and continues north along the eastern edge of the Department of Labor Building to the center of D Street, N.W.; and continues west along the center line of D Street, N.W., to the western edge of I-395; and continues north along the western edge of I-395 to the center of Massachusetts Avenue, N.W. (the starting point).

(c)(1) The BID taxes for nonexempt real properties in the Downtown BID shall be:

(A) The amount of $.149835 per square foot for each net rentable square foot for improved Class 4 Properties where the Office of Taxation and Revenue has records indicating the net rentable area of the property. Net rentable square feet shall be the number of net rentable square feet reported to the District and shall be calculated by the owner using any method that is recognized generally in the District metropolitan area as an appropriate method for measuring space in agreements between landlords and tenants;

(B) The amount of $.149835 per square foot for each equivalent net rentable square foot of improvements for improved Class 4 Properties for any property where the Office of Taxation and Revenue does not have records indicating the net rentable area of the property, and for improved Class 5 Properties. Equivalent net rentable area shall be 90% of the gross building area. For purposes of this paragraph, gross building area shall be determined using records provided by the Office of Taxation and Revenue;

(C) The amount of $74.215 per hotel room for Class 3 Properties; and

(D) The amount of $.149835 per square foot of land area for all unimproved Class 4 Properties, and all improved Class 4 Properties that are surface parking lots, and all unimproved Class 5 Properties. Land area shall be determined using records provided by the Office of Taxation and Revenue;

(2) A 3% annual increase in the BID taxes over the current tax year rates specified in subsection (a) of this section is hereby authorized and imposed subject to the requirements of § 2-1215.08(b).

(3)(A) Notwithstanding paragraph (1) of this subsection, the BID taxes for the nonexempt real properties in the Downtown BID shall be:

(i) The amount of $0.16 per square foot for each net rentable square foot for commercial buildings not being taxed under paragraph (1)(C) of this subsection or sub-subparagraph (ii) of this subparagraph, applying to periods beginning after September 30, 2012;

(ii) The amount of $82 per hotel room annually for property defined under § 47-813(c-3)(3), applying to periods beginning after March 31, 2013; and

(iii) The amount of $0.16 per square foot of land for surface parking lots or unimproved lots without buildings or other improvements on them, applying to periods beginning after September 30, 2012.

(B) Net rentable square feet shall be the number of net rentable square feet reported to, or on record with, the Office of Tax and Revenue. If the Office of Tax and Revenue does not have records for net rentable square feet, then net rentable square feet shall be calculated as 90% of the gross building area as determined using records provided by the Office of Tax and Revenue.

(May 29, 1996, D.C. Law 11-134, § 201, as added Mar. 17, 2005, D.C. Law 15-257, § 2(d), 52 DCR 1161; Apr. 7, 2006, D.C. Law 16-91, § 140(c), 52 DCR 10637; Sept. 11, 2008, D.C. Law 17-227, § 2, 55 DCR 8305; Oct. 22, 2012, D.C. Law 19-180, § 2(b), 59 DCR 9421.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-180 added (c)(3).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

For temporary addition of (c)(3), see § 2(b) of the Downtown BID Emergency Amendment Act of 2012 (D.C. Act 19-427, July 27, 2012, 59 DCR 9381).

Legislative history of Law 19-180. — See note to § 2-1215.15.

§ 2-1215.58. Capitol Riverfront BID.

(a) Subject to review and approval by the Mayor under the provisions of §§ 2-1215.04 and 2-1215.05, the formation of the Capitol Riverfront BID, including nonexempt real property within the geographic area set forth in subsection (b) of this section, is hereby authorized and the BID taxes established in subsection (c) of this section are hereby imposed through the expiration date of this act or the termination or dissolution of the BID.

(b) The Capitol Riverfront BID shall be comprised of the geographic area bounded by a line beginning at the intersection of an extension south of the center line of 2nd Street, S.W., and the northern bank of the Anacostia River; continuing north along extension of the center line of 2nd Street, S.W., to the center line of 2nd Street, S.W.; continuing north along the center line of 2nd Street, S.W., to the center line of Q Street, S.W.; continuing east along the center line of Q Street, S.W., to the center line of Half Street, S.W.; continuing north along the center line of Half Street, S.W., to the center line of P Street, S.W.; continuing east along the center line of P Street, S.W., to the center line of South Capitol Street; continuing north along the center line of South Capitol Street to the southern boundary of the Southeast-Southwest Freeway (I-395); continuing southeast along the southern boundary of the Southeast-Southwest Freeway (I-395) to the intersection of an extension south of the center line of 15th Street, S.E.; continuing south along the extension of the center line of 15th Street, S.E., to the northern bank of the Anacostia River; continuing southwest along the northern bank of the Anacostia River to the center line of 2nd Street, S.W.

(c)(1) The BID taxes for the nonexempt real properties in the Capitol Riverfront BID shall be:

(A) $0.16 per square foot for commercial buildings greater or equal to 8,000 square feet, and $0.09 per $100 of assessed value for commercial buildings less than 8,000 square feet; provided, that the BID tax imposed on any such real property shall not exceed $100,000 annually;

(B) $120 per unit for residential units annually;

(C) $95 per hotel room annually;

(D) $0.16 per square foot for land or buildings with existing active industrial, utility, or storage use;

(E) $0.08 per square foot for real property within the new proposed Frederick Douglass Memorial Bridge right-of-way; and

(F) $0.36 per square foot for unimproved land that is up to 88,000 square feet, $0.065 per square foot for unimproved land that is 88,000 to 200,000 square feet, and $0.18 per square foot for unimproved land that is

greater than 200,000 square feet; provided, that the BID tax imposed on any such unimproved land shall not exceed $100,000 annually.

(2) To the extent that a building that is subject to the BID tax is constructed pursuant to a ground lease on land that is exempt from real property taxes, the assessed value of the real property for purposes of the BID tax shall include the value of the building and the leasehold interest, possessory interest, beneficial interest, or beneficial use of the land, and the lessee or user of the land shall be assessed the corresponding BID tax, which shall be a personal liability of the lessee. Delinquencies shall be collected in the same manner as possessory interest taxes under § 47-1005.01 or as otherwise provided in this subchapter.

(3) A 5% annual increase in the BID taxes over the current tax year rates specified in paragraph (1) of this subsection is authorized subject to the requirements of § 2-1215.08(b).

(4) For the purposes of this subsection, the real property located in Square 770, Lot 802, designated as the DOT PILOT Area under the DOT Pilot Revision Emergency Approval Resolution of 2006, effective October 18, 2006 (Res. 16-845; 53 DCR 8970), shall be deemed a nonexempt real property.

(May 29, 1996, D.C. Law 11-134, § 208, as added Oct. 18, 2007, D.C. Law 17-27, § 2(c), 54 DCR 8020; Mar. 25, 2009, D.C. Law 17-353, §§ 179, 219, 56 DCR 1117; July 13, 2012, D.C. Law 19-161, § 2, 59 DCR 5704.)

Section references. — This section is referenced in § 47-857.11.

Effect of amendments.

D.C. Law 19-161 rewrote subsec. (c)(1), which formerly read:

"(c)(1) The BID taxes for the nonexempt real properties in the Capitol Riverfront BID shall be:

"(A) The amount of $0.09 per $100 of the assessed value of real property containing less than 50,000 square feet of gross building area;

"(B) The amount of $0.04 per $100 of the assessed value of land and buildings which have a certificate of occupancy or other District license indicating that the land or building has an existing active industrial, utility, or storage use;

" (C) The amount of $0.02 per $100 of assessed value of land and buildings located, in whole or in part, within the right-of-way for the realignment of the Frederick Douglass Memorial Bridge;

"(D) The amount of $0.12 per square foot of commercial buildings containing 50,000 square feet of gross building area or more; provided, that the BID tax imposed on any such real property shall not exceed $75,000 annually;

"(E) The amount of $72 per hotel room annually; and

"(F) The amount of $96 per unit annually for nonexempt residential properties; provided, that if a residential unit is restricted to residents based upon income pursuant to a federal or District affordable housing program, the BID tax due on the unit shall be computed by applying the percentage of area median income that an eligible household must meet to participate in the affordable housing program for the unit to the amount of the BID tax which would otherwise be due."

Legislative history of Law 19-161. — Law 19-161, the "Capitol Riverfront BID Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-707, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-369 and transmitted to both Houses of Congress for its review. D.C. Law 19-161 became effective on July 13, 2012.

Subchapter IX. Tax Increment Financing.

PART B.

IDENTIFIED PROJECTS.

§ 2-1217.33c. Creation of the City Market at O Street TIF Area.

(a) There is created a TIF area designated as the City Market at O Street TIF Area. The City Market at O Street TIF Area is defined as the real property located in Lots 829 and 830, Square 398. As provided under § 2-1217.33b, the Available Tax Increment from the City Market at O Street TIF Area shall be deposited in the City Market at O Street Fund and may be used for the purposes set forth in § 2-1217.33b.

(b)(1) The base year for determination of Available Sales Tax Revenues from locations within the City Market at O Street TIF Area shall be the tax year preceding the year in which this subpart becomes effective.

(2) The base year for determination of Available Real Property Tax Revenues shall be the tax year of the District preceding the year in which this subpart becomes effective and the initial assessed value to be used in making the determination of Available Real Property Tax Revenues shall be the assessed value of each lot of taxable real property in the City Market at O Street TIF Area for the preceding tax year in which this subpart becomes effective.

(Nov. 25, 2008, D.C. Law 17-278, § 4, 55 DCR 11050; Sept. 26, 2012, D.C. Law 19-171, § 20, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (b)(2).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 2-1217.34f. Issuance of the Bonds.

(a) The Bonds of any series may be sold at negotiated upon terms that the Mayor considers to be in the best interests of the District.

(b) The Bonds also may be issued as a TIF note to the Development Sponsor and may be held and used as security for debt incurred or to be incurred by the Development Sponsor, an agent of the Development Sponsor, or another party selected by the Development Sponsor.

(c) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and

may authorize the distribution of the documents in connection with the sale of the Bonds.

(d) The Mayor is authorized to deliver executed and sealed Bonds, on behalf of the District, for authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the Bonds upon payment of the purchase price.

(e) The Bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the Bonds of such series and, if the interest on the Bonds is expected to be exempt from federal income taxation, the treatment of the interest on the Bonds for purposes of federal income taxation.

(f) Chapter 3A of Title 2 [§ 2-351.01 et seq.] and subchapter III of Chapter 3 of Title 47 shall not apply to any contract that the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this subpart [§§ 2-1217.34a to 2-1217.34n].

(Dec. 7, 2010, D.C. Law 18-275, § 7, 57 DCR 9873; Sept. 26, 2012, D.C. Law 19-171, § 222, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 substituted "Chapter 3A of Title 2" for "§ 2-301.01 et seq." in (f).

Legislative history of Law 19-171. — See note to § 2-1217.33c.

Subchapter IX-A. Tax Increment Financing For Retail Development.

§ 2-1217.73. Retail Priority Areas.

(a)(1) The Mayor shall identify areas within the District where:

(A) There exist barriers to entry that impede Retail Development Projects; and

(B) The proceeds of Bonds may be used to eliminate these barriers to entry and promote Retail Development Projects.

(2)(A) The Mayor may designate additional Retail Priority Areas by submitting to the Council for a 45-day period of review, excluding weekends, holidays, and periods of Council recess, a proposed resolution, which:

(i) Designates one or more Retail Priority Areas;

(ii) States the maximum aggregate principal amount of Bonds that may be issued with respect to each Retail Priority Area; and

(iii) States the latest date by which the Bonds may be issued with respect to each Retail Priority Area.

(B) In addition to the resolution, the Mayor shall submit to the Council information supporting the Mayor's determinations concerning the use of TIF to promote retail development in each Retail Priority Area, including findings of the CFO that the proposed Retail Priority Area is not inconsistent with the financial plan and budget for the fiscal year of the District and does not exceed the limitations set forth in § 2-1217.72(a).

(C) If the Council does not approve or disapprove the proposed resolu-

tion within the 45-day period of review, excluding weekends, holidays, and periods of Council recess, the proposed resolution shall be deemed approved.

(b) In addition to Retail Priority Areas that may be approved pursuant to subsection (a) of this section:

(1) The Downtown Retail Priority Area is designated as a Retail Priority Area;

(2) The issuance of Bonds with respect to the Downtown Retail Priority Area, not to exceed the aggregate principal amount of $25 million, is approved;

(3) The latest date for the issuance of such Bonds is September 30, 2015; and

(4) The base year for the calculation of Available Sales Tax Revenues shall be the fiscal year beginning October 1, 2002 and the base year for the calculation of Available Real Property Tax Revenues shall be the fiscal year beginning October 1, 2003.

(b-1) The maximum aggregate principal amount of bonds that may be issued with respect to the Pennsylvania Avenue, S.E., Retail Priority Area, approved by the Council in section 3(6) of the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), is increased from $10 million to $15 million.

(c) The Mayor shall prepare and deliver an annual report to the Council each year on January 1st through the year ending September 30, 2015. The annual report shall contain a listing and description of each Retail Development Project approved as a TIF Area pursuant to this subchapter. Each listing shall contain specific information about the nature of the Retail Development Project, the use of the proceeds of the Bonds, the projected Tax Increment Revenues attributable to each listed TIF Area, and any other information the Council may request regarding such TIF Areas.

(d) If the Mayor determines that a Retail Priority Area is no longer necessary, the Mayor may abolish the Retail Priority Area; provided, that if any Bonds are outstanding with respect to any TIF Area therein, the Mayor shall take no action to abolish the Retail Priority Area or that otherwise will adversely affect the security of the holders of the Bonds.

(e) The Mayor shall identify potential Retail Priority Areas. Within 180 days of September 8, 2004, the Mayor shall submit to the Council resolutions designating as Retail Priority Areas the following areas:

(1) Columbia Heights;

(2) Georgia Avenue;

(3) Minnesota/Benning;

(4) Shaw; and

(5) H Street, NE Corridor.

(Sept. 8, 2004, D.C. Law 15-185, § 4, 51 DCR 5941; Sept. 24, 2010, D.C. Law 18-223, § 7112(c), 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 2152, 59 DCR 8025.)

Section references. — This section is referenced in § 2-1217.74.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "$25 million" for "$30 million" in (b)(2); and added (b-1).

Emergency legislation.

For temporary (90 day) amendment of sec-

tion, see § 2152 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2152 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — See note to § 2-1215.20.

Subchapter XIII. National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization.

PART A.

REORGANIZATION OF NCRC AND AWC.

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§ 2-1225.02. Transition to District control.

(a)(1) The Mayor may transfer any contract of the AWC, NCRC, or any of their subsidiaries, which include the RLARC, the SWDC, the SWHC, and the Economic Development Finance Corporation ("EDFC"), established by § 2-1207.03 (repealed by section 7 of D.C. Law 14-213, effective October 19, 2002), to the District's contracting and procurement system. Any lawful contracts of the AWC and the NCRC not transferred by the Mayor under this subsection before October 1, 2007, shall be transferred to the District's contracting and procurement system on October 1, 2007, pursuant to §§ 2-1225.11 and 2-1225.12.

(2) Notwithstanding paragraph (1) of this subsection, any rights and obligations existing under contracts to which either the AWC or the NCRC are parties shall not transfer to the District before October 1, 2007.

(b)(1) The Mayor may hire as an employee of the District government a person who was an employee of the AWC or the NCRC, or any of their subsidiaries, on July 20, 2007.

(2) Any employee of the NCRC or the AWC, or any of their subsidiaries, who was an employee on July 20, 2007, and who is not hired by the Mayor pursuant to paragraph (1) of this subsection, shall be entitled to 4 weeks severance pay, and one month's COBRA premium for continued health care under the Consolidated Omnibus Budget Reconciliation Act of 1985, approved April 7, 1986 (Pub. L. No. 99-272; 100 Stat. 82).

(c) Any leave that an employee who is hired pursuant to this section accrued during his or her tenure with the AWC, the NCRC, or any of their subsidiaries, shall be credited to the employee once the employee is hired by the District. The accrued leave of the employee shall be allocated between sick leave and annual leave in such proportions as the Mayor considers appropriate.

(d) Each employee's length of service at the AWC or the NCRC, or any of their subsidiaries, and the employee's service with the District government, if such service was immediately prior to the employee's service with the AWC or the NCRC, shall be counted as creditable District government service for vesting in the District's retirement program and for the rate at which the employee accrues annual leave.

(e) If an employee is hired by the District government under this section and was employed by the District government immediately prior to his or her employment with the AWC or the NCRC and funds were deposited into the employee's District of Columbia retirement account during the employee's term of employment with the District government and the deposited funds lapsed from the retirement account because of a break in employment with the District government caused by the employee's service with the AWC or the NCRC, the deposited funds that lapsed shall be restored to the employee's retirement account by the District.

(f)(1) The Mayor may increase the full-time equivalent authority of the executive branch by 40 to effectuate the objectives of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; 55 DCR 1689).

(2) Subject to Council approval by act, the Mayor may increase the full-time equivalent authority provided by this subsection.

(g)(1) The Mayor may transfer any unexpended balances of appropriations, allocations, income, or other funds available, including the Fiscal Year 2007 budget authority of the AWC and the NCRC, from the accounts and systems of the AWC and the NCRC to the District.

(2) All unexpended balances of appropriations, allocations, income, and other funds available, and the Fiscal Year 2007 budget authority of the AWC and the NCRC shall transfer to the District on October 1, 2007.

(3) Operating funds transferred pursuant to this subsection shall be deposited into the Economic Development Special Account established by § 2-1225.21.

(4) Capital funds transferred pursuant to this subsection shall be deposited into the capital accounts established by § 2-1225.22.

(h) The Mayor may transfer any property, records, rights, obligations, causes of action, legal or equitable title to any real property, or legal obligations of the NCRC and the AWC and any of their subsidiaries or predecessors in interest; provided, that all such property, records, rights, obligations, causes of action, legal and equitable title to any real property, or legal obligations under this subsection shall be transferred to the District on October 1, 2007, pursuant to §§ 2-1225.11 and 2-1225.12.

(i) The Mayor shall prepare and submit to the Council by July 12, 2007, a transition plan for the transfer of the functions, duties, powers, records, real and personal property, liabilities, and other rights, authorities, obligations, and assets from the NCRC and the AWC to the management and control of the Mayor.

(Mar. 26, 2008, D.C. Law 17-138, § 102, 55 DCR 1689; Sept. 14, 2011, D.C. Law 19-21, § 9027(a), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 2022(a), 59 DCR 8025.)

Section references. — This section is referenced in § 2-1225.11 and § 2-1225.12.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 substituted "into the Economic Development Special Account established by § 2-1225.21" for "into the General Fund of the District of Columbia" in (g)(3).

Emergency legislation.

For temporary (90 day) amendment of sec-

tion, see § 2022(a) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 2022(a) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

PART C.

ECONOMIC DEVELOPMENT SPECIAL ACCOUNT.

§ 2-1225.21. Economic Development Special Account.

(a) There is established as a nonlapsing fund the Economic Development Special Account ("Account"), which shall be used solely for the purposes set forth in this section.

(b)(1) Deposits into the Account shall include:

(A) All operating funds transferred from the Anacostia Waterfront Corporation Enterprise Fund, established by § 2-1223.14;

(B) All operating funds transferred from the National Capital Revitalization Corporation Enterprise Fund, established by § 2-1219.08;

(C) All fees, revenues, and other income from real property or other assets formerly under the authority of the National Capital Revitalization Corporation ("NCRC") or the Anacostia Waterfront Corporation ("AWC"), or any of their subsidiaries, which include the RLA Revitalization Corporation, Southwest Waterfront Development Corporation, Southwest Waterfront Holdings Corporation, and Economic Development Finance Corporation;

(D) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Account;

(E) Any other monies designated by law to be deposited into the Account; and

(F) Interest on money deposited in the Account.

(2) Funds deposited into the Account pursuant to this subsection shall be maintained in segregated sub-accounts associated with each revenue source as the Chief Financial Officer determines necessary.

(3) The funds deposited into the Account, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsections (c) and (d) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) Monies credited to the Account shall be allocated annually to the Office of the Deputy Mayor for Planning and Economic Development in an aggregate amount that is equal to the total deposits and earnings that are estimated to remain unspent in the Account at the end of the preceding fiscal year plus all

deposits and earnings that are estimated to be received during the fiscal year for which the allocation is made.

(d) Monies may be used to pay the costs of operating and administering properties and programs under the authority of the Deputy Mayor for Planning and Economic Development, including properties and programs formerly operated and administered by the NCRC and the AWC, to provide economic development assistance, including the provision of grants, loans, and credit support or enhancement, and to implement other programs, projects, and initiatives that:

(1) Are consistent with and in furtherance of the economic development goals or activities of the District;

(2) Further meeting the requirements of providing jobs for District residents, creating affordable housing, and restoring the District's waterways pursuant to subchapter XIV of this chapter [§ 2-1226.01 et seq.];

(3) Support the development of a workforce intermediary pursuant to § 2-1226.03 or

(4) Facilitate the implementation of the environmental standards pursuant to part B of subchapter XIV of this chapter [§ 2-1226.31 et seq.].

(e)(1) Fees, revenue, and other income that otherwise would be deposited into the Account under this section but that are subject to Community Development Block Grant regulations shall be deposited into a segregated sub-account designated for Community Development Block Grant funds and shall be subject to applicable reporting to the United States Department of Housing and Urban Development.

(2) The funds in the segregated sub-account shall be included as a segregated line item in the budget of the Department of Housing and Community Development that the Mayor is required to submit to the Council pursuant to § 1-204.42, and shall be designated for use by the Deputy Mayor for Planning and Economic Development, consistent with the requirements of the Community Development Block Grant Program.

(Mar. 26, 2008, D.C. Law 17-138, § 301, 55 DCR 1689; Oct. 22, 2008, D.C. Law 17-253, § 2, 55 DCR 9270; Mar. 3, 2010, D.C. Law 18-111, § 2051, 57 DCR 181; Oct. 26, 2010, D.C. Law 18-257, § 5, 57 DCR 8144; Sept. 14, 2011, D.C. Law 19-21, § 9027(b), 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, §§ 2022(b), 2023, 59 DCR 8025.)

Section references. — This section is referenced in § 2-1225.02, § 2-1225.11, and § 2-1225.12.

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 revived this section by repealing D.C. Law 19-21, § 9027(b) and by reviving D.C. Law 17-138, § 301 as of September 14, 2011; and rewrote the section.

Emergency legislation.

For temporary (90 day) revival and amendment of section, see § 2022(b) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 2023 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) revival and amendment of section, see § 2022(b) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

For temporary (90 day) repeal of section 9027(b) of D.C. Law 19-21, see § 2023 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-168. — Law

19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

PART E.

EMINENT DOMAIN.

§ 2-1225.42. Further exercise of eminent domain at Skyland Shopping Center.

Emergency legislation. — For temporary (90 day) addition of sections, see §§ 2032 to 2036 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) addition of sections, see §§ 2032 to 2036 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Subchapter XIV. Economic Development along the Anacostia Waterfront.

PART A.

ANACOSTIA WATERFRONT INITIATIVE AND FRAMEWORK PLAN.

§ 2-1226.04. Definition of Anacostia Waterfront Development Zone.

For the purpose of this subchapter, the term "Anacostia Waterfront Development Zone" means:

(1) Interstate 395 and all rights-of-way of Interstate 395, within the District, except for the portion of Interstate 395 that is north of E Street, S.W., or S.E.;

(2) All land between that portion of Interstate 395 that is south of E Street, S.W., or S.E., and the Anacostia River or Washington Channel;

(3) All land between that portion of Interstate 695, and all rights-of-way, that are south of E Street, S.W. or S.E., and the Anacostia River;

(4) The portion of Interstate 295 that is north of the Anacostia River, within the District, and all rights-of-way of that portion of Interstate 295;

(5) All land between that portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;

(6) The portions of:

(A) The Anacostia Freeway that are north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights-of-way of that portion of the Anacostia Freeway;

(B) Kenilworth Avenue that extend to the northeast from the Anacostia Freeway to Eastern Avenue; and

(C) Interstate 295, including its rights-of-way, that are east of the Anacostia River and that extend to the southwest from the Anacostia Freeway to Defense Boulevard.

(7) All land between those portions of the Anacostia Freeway, Kenilworth Avenue, and Interstate 295 described in paragraph (6) of this section and the Anacostia River;

(8) All land that is adjacent to the Anacostia River and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map, dated January 2002, except for the land that is:

(A) North of New York Avenue, N.E.;

(B) East of the Anacostia Freeway; including rights-of-way of the Anacostia Freeway;

(C) East of the portion of Kenilworth Avenue that extends to the northeast from the Anacostia Freeway to Eastern Avenue;

(D) East of the portion of Interstate 295, including its rights-of-way, that is east of the Anacostia River and that extends to the southwest from the Anacostia Freeway to Defense Boulevard, but excluding the portion of 295 and its rights-of-way that go to the northwest across the Anacostia River;

(E) Contiguous to that portion of the Suitland Parkway that is south of Martin Luther King, Jr. Avenue; or

(F) South of a line drawn along, and as a continuation both east and west of the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;

(9) All land, excluding Eastern High School, that is:

(A) Adjacent to the land described in paragraph (8) of this section;

(B) West of the Anacostia River; and

(C) Designated as a local public facility on the District of Columbia Generalized Land Use Map, dated January 2002;

(10) All land that is:

(A) South or east of that portion of Potomac Avenue, S.E., between Interstate 295 and 19th Street, S.E.; and

(B) West or north of the Anacostia River;

(11) The portion of the Anacostia River within the District; and

(12) The Washington Channel.

(Mar. 26, 2008, D.C. Law 17-138, § 404, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(a), 59 DCR 10174.)

Section references. — This section is referenced in § 2-1226.33.

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 substituted "Interstate 395 that is north of E Street, S.W., or S.E." for "Interstate 95 that is north of D Street, N.W., and N.E." in (1); substituted "south of E Street, S.W., or S.E., and the Anacostia River or Washington Channel" for "south of D Street, N.W., and N.E., and the Washington Channel" in (2); substituted "Interstate 695, and all rights-of-way, that are south of E Street, S.W. or S.E." for "Interstate 395 that is south of D Street, N.W. and N.E." in (3); rewrote (6) and (8); substituted "paragraph (8) of this section" for "paragraph (7) of this section" in (9)(A); and substituted "and" for "or" at the end of (9)(b).

Legislative history of Law 19-192 — Law 19-192, the "Anacostia Waterfront Environmental Standards Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-745. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on August 09, 2012, it was assigned Act No. 19-447

and transmitted to Congress for its review. D.C. Law 19-192 became effective on Oct. 23, 2012.

PART B.

ANACOSTIA WATERFRONT ENVIRONMENTAL STANDARDS.

§ 2-1226.32. Definitions.

For the purposes of this part, the term:

(1) "Applicant" shall have the same meaning as set forth in § 6-1451.01(2).

(1A) "Complete stormwater management plan" means a plan, with required supporting documentation, that demonstrates compliance with each applicable stormwater management requirement, as determined by DDOE.

(1B) "Current edition" shall have the same meaning as provided in § 6-1451.01(8A).

(1C) "DDOE" means the District Department of the Environment.

(1D) "District-financed" or "District instrumentality-financed" shall have the same meaning as provided in § 6-1451.01(10A).

(1E) "First building permit" shall have the same meaning as provided in § 6-1451.01(14A).

(2) "Green Building Act" means the Chapter 14A of Title 6.

(3) "LEED" shall have the same meaning as provided in § 6-1451.01(26).

(3A) "LEED standard for commercial and institutional buildings" shall have the same meaning as provided in § 6-1451.01(31A).

(4) "New construction" shall have the same meaning as set forth in § 6-1451.01(33).

(5) "Project" shall have the same meaning as set forth in § 6-1451.01(35).

(6) Repealed.

(7) "Substantial improvement" shall have the same meaning as set forth in § 6-1451.01(40).

(Mar. 26, 2008, D.C. Law 17-138, § 452, 55 DCR 1689; Mar. 31, 2011, D.C. Law 18-349, § 4(a), 58 DCR 724; Oct. 23, 2012, D.C. Law 19-192, § 2(b), 59 DCR 10174.)

Effect of amendments. The 2012 amendment by D.C. Law 19-192 redesignated (1A) as (1B); added (1A), (1C), (1D), and (1E); and repealed (6).

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.33. Applicability of part.

(a) This part shall apply to all new construction and substantial improvement projects located within the Anacostia Waterfront Development Zone, as defined in § 2-1226.04:

(1) That are District-owned or District instrumentality-owned;

(2) Where at least 15% of a project's total cost is District-financed or District instrumentality-financed; or

(3) That include a gift, lease, or sale from District-owned or District instrumentality-owned property to a private entity.

(b) The requirements of § 2-1226.36 shall not apply to projects which, as of October 23, 2012, have:

(1) Applied for a first building permit; or

(2) Submitted a complete stormwater management plan to DDOE.

(c) Repealed.

(d) Repealed.

(Mar. 26, 2008, D.C. Law 17-138, § 453, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(c), 59 DCR 10174.)

Section references. — This section is referenced in § 2-1226.36.

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 rewrote the section.

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.35. Green building standards.

(a) All projects subject to this section shall comply with the following green building standards:

(1) Non-residential new construction or substantial improvement projects shall:

(A) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the gold level;

(B) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the gold level for improvements to interiors of new or existing non-residential buildings;

(C) Comply with the ENERGY STAR requirements of the Green Building Act and, in addition:

(i) Achieve 85 points on the Environmental Protection Agency national energy performance rating system; and

(ii) Be designed to be 30% more energy efficient than required by ASHRAE 90.1 2004, or a later standard adopted by the Mayor pursuant to § 2-1226.41; and

(D) Provide ENERGY STAR Benchmark and Target Finder scores and ENERGY STAR statements to the DDOE and the Department of Consumer and Regulatory Affairs ("DCRA") within 60 days after the scores are generated; and

(2)(A) Residential new construction and substantial improvement projects shall:

(i) Fulfill or exceed the current edition of the LEED standard for commercial and institutional buildings at the silver level; and

(ii) Achieve the ENERGY STAR label and be 30% more energy efficient than required by ASHRAE 90.1 2004, or such later standard adopted by the Mayor pursuant to § 2-1226.41; and

(B) Residential new construction and substantial improvement projects may, if the project is a District-financed project that receives public financing for the purpose of assisting in the new construction or substantial rehabilitation of affordable housing, apply the Green Communities standards as an alternative to LEED for the affordable units within the project; provided, that the project shall achieve the ENERGY STAR label and be 30% more energy efficient than required by ASHRAE 90.1 2004, or a later standard adopted by the Mayor pursuant to § 2-1226.41.

(b) The Mayor shall encourage developers to seek to align the project design with the greenhouse gas reduction goals in the "2030 Challenge" as adopted by the American Institute of Architects and United States Conference of Mayors.

(c) The DDOE, in coordination with the DCRA and other appropriate agencies shall, to the greatest extent practical, coordinate the implementation of the standards established by this section with implementation of the Green Building Act.

(Mar. 26, 2008, D.C. Law 17-138, § 455, 55 DCR 1689; Mar. 31, 2011, D.C. Law 18-349, § 4(b), 58 DCR 724; Oct. 23, 2012, D.C. Law 19-192, § 2(d), 59 DCR 10174.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-192 substituted "DDOE" for "District Department of the Environment ('DDOE')" in (a)(1)(D).

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.36. Stormwater control standards.

(a) This section shall apply to the new construction and substantial improvement projects identified in § 2-1226.33 that disturb 5,000 square feet or greater of soil or that have a building footprint of 5,000 square feet or greater.

(b) Private and public space, including buildings, sidewalks, streets, and lawns, within a project subject to this part that discharge directly to the waters of the District, or to either a separate or combined sewer system, shall be designed, constructed, and maintained to comply with the following:

(1) Manage stormwater by:

(A) The reduction of the volume of stormwater run-off created during a 24-hour one-inch storm event following 72 hours of dry conditions, via on-site retention through DDOE-approved practices, including those that incorporate one or more of the following: infiltration, evapo-transpiration, and beneficial reuse; and

(B) The improvement of stormwater quality by filtering the stormwater from the 95th percentile storm flowing from a project, by passing the flow through a vegetated filtering medium or other on-site controls designed to remove sediment and pollutants of concern as identified in permits by the DDOE or the District of Columbia Water and Sewer Authority so that, according to DDOE's determination, the discharge will not cause the exceedance of any water-quality standard applicable to the receiving water or cause interference or pass-through of pollutants at the Blue Plains receiving facility;

(2) Achieve the required level of stormwater control using the following DDOE-approved methods, in the following order of preference:

(A) Vegetated controls designed to retain and beneficially use stormwater;

(B) Where compatible with groundwater protection, non-vegetated controls designed to promote infiltration;

(C) Other low-impact development practices;

(D) Collection and reuse of stormwater for on-site irrigation; and

(E) Other on-site design methods or practices;

(3) Employ, where feasible, DDOE-approved low-impact development technologies for public spaces regulated by the District Department of Transportation;

(4) Restrict the on-site use of fertilizers, pesticides, and herbicides, through use of a DDOE-approved integrated pest management plan;

(5) Design stormwater controls to prevent migration of stormwater into contaminated underlying soils or groundwater;

(6) Certify that remediation of contaminated soils or groundwater is either completed as part of the development or that properly functioning long-term remedial measures are in place;

(7) Treat any groundwater produced at a project during construction or after completion of construction to remove sediment and pollutants of concern as required by DDOE or the United States Environmental Protection Agency, depending on which agency has jurisdiction; and

(8) Provide that any groundwater discharged from the site into the sanitary sewer system conforms to District of Columbia Water and Sewer Authority requirements designed to ensure that the discharge will not cause or contribute to the exceedance of any water quality standard applicable to the receiving water or cause interference or pass-through of pollutants at the Blue Plains receiving facility.

(c)(1) If DDOE determines that, based on site conditions such as soil or groundwater contamination, local geology, or impacts on surrounding landowners, the substantial weight of the evidence limits the feasibility or appropriateness of the on-site stormwater management required by subsection (b)(1) of this section:

(A) Either off-site mitigation or payment in lieu of mitigation, or a combination thereof, shall be used to satisfy:

(i) The difference between the on-site stormwater reduction volume required by subsection (b)(1)(A) of this section and the volume of on-site stormwater reduction achieved; and

(ii) The difference between the on-site filtration required by subsection (b)(1)(B) of this section, and the volume of filtration achieved;

(B) Off-site mitigation shall be a reduction of stormwater volume equal to the off-site volume and shall be maintained for the life of the primary project; provided, that if the off-site mitigation is located outside the Anacostia Watershed, the volume treated shall equal 1.25 times the volume that would have been required to be treated on site; and

(C) Payment in lieu of mitigation shall be equal to the cost for DDOE to reduce the off-site volume for the life of the primary project. DDOE shall

determine this payment based on DDOE's fully burdened and inflation-adjusted cost of retention to achieve stormwater volume reduction via infiltration, evapo-transpiration, re-use practices, or other methods or practices approved by DDOE, for a site determined by DDOE.

(2) For the purposes of this subsection, the term "off-site volume" shall mean the difference between the requirements of subsection (b)(1)(A) or (b)(1)(B) of this section, and the volume of on-site stormwater management achieved.

(d) A payment in lieu of mitigation shall be:

(1) Deposited in the Anacostia River Clean Up and Protection Fund, established by § 8-102.05; and

(2) Used to achieve stormwater volume reduction in the Anacostia watershed.

(e) Under circumstances described in subsection (c) of this section, transportation projects, or substantially similar projects undertaken by a public utility, in the existing public right-of-way shall be exempt from the requirement for off-site mitigation or payment in lieu of mitigation.

(Mar. 26, 2008, D.C. Law 17-138, § 456, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(e), 59 DCR 10174.)

Section references. — This section is referenced in § 2-1226.33 and § 2-1226.40b.

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 rewrote the section.

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.38. Site planning and preservation standards.

Projects subject to this part shall comply with the following site planning and preservation standards:

(1) The project shall be designed to ensure continued public access to the Anacostia River and associated waterways and to the Anacostia riverwalk and trail system.

(2) Existing public parks shall be preserved and the Mayor shall endeavor to minimize encroachment unless there is no feasible alternative. If the project encroaches on a public park, the encroachment shall be mitigated in kind at a minimum acreage ratio of at least 1-to-1 and the mitigation shall be of equal or greater quality than the parkland that is lost.

(3) No construction or development shall disturb delineated wetlands or land within 100 feet of delineated wetlands, which shall be maintained as a buffer, unless the DDOE and the U.S. Army Corps of Engineers both agree that construction in these areas cannot reasonably be avoided. Any impacts on wetlands approved by the DDOE shall require mitigation in-kind at a minimum acreage ratio of 3-to-1. The mitigation shall be provided on-site, unless on-site locations are unavailable or infeasible as determined by both the DDOE and the United States Army Corps of Engineers. Preference for mitigation should be given to restoring degraded wetlands or recreating former wetlands, not creating new wetlands. On-site remaining wetlands and buffers

that are not impacts and off-site mitigation areas shall be permanently protected.

(4)(A) Streams that have been diverted into pipes or other constructed conveyances shall be daylit unless determined by the DDOE to be infeasible.

(B) For the purposes of this paragraph, the word "daylit" means the redirection of streams into above-ground channels in order to restore the streams to a more natural state and to enhance the riparian environment and ecological integrity of the Anacostia River system.

(5) The applicant shall ensure protection or creation of woodland and meadow riparian buffer zones along each bank of the Anacostia River defined in the Anacostia Waterfront Initiative Framework Plan of between 50 and 300 feet along the main channel of the Anacostia River, except where necessary to ensure public access and use of the waterfront. Development along tributary streams of the Anacostia River shall maintain a minimum riparian buffer of 25 feet. The DDOE may require a wider buffer along the channel or tributary streams where it is determined that a wider buffer zone is necessary to protect waterways.

(6) Roadways shall comply with the Anacostia Waterfront Transportation Architecture Design Standards developed by the DDOT.

(7) Projects shall incorporate planted vegetated buffers within the right-of-way of all roadways to increase tree cover and shade, mitigate traffic noise, absorb toxic emissions, and minimize stormwater runoff at levels determined by the DDOE by rulemaking.

(8) Projects shall ensure sufficient tree planting to provide canopy coverage within 20 years of project occupancy of 30% of non-roof impervious surfaces and 40% of overall-non-roof surfaces within the project area.

(9) Development along both sides of the Anacostia River and along associated waterways shall, unless determined by the DDOE to be infeasible, include continuous, publicly accessible trails that comply with the Anacostia Riverparks Plan and Riverwalk Design Guidelines.

(10) Projects shall coordinate with the DDOE on any habitat restoration activity to ensure consistency with the DDOE's Wildlife Action Plan.

(Mar. 26, 2008, D.C. Law 17-138, § 458, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(f), 59 DCR 10174.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 substituted "projects" for "applicants" in (7), (8), and (10).

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.39. Exemptions to requirements.

(a) The DDOE may grant, upon a showing of good cause, an exemption from a requirement of this part, in whole or in part, if:

(1) The substantial weight of the evidence is of a practical infeasibility or hardship of meeting the requirement; and

(2) The public interest would be better served by the exemption.

(b) When considering a request for an exemption, the DDOE may consider alternative measures proposed by the applicant.

(c) The DDOE shall give notice of any exemption granted pursuant to this section to the Council and affected Advisory Neighborhood Commission no less than 10 days from the date the exemption is granted. Notice of the exemption shall be published in the District of Columbia Register before the exemption may take effect.

(Mar. 26, 2008, D.C. Law 17-138, § 459, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(g), 59 DCR 10174.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 substituted "DDOE" for "Mayor" throughout the section; and substituted "The substantial weight of the evidence is" for "There is evidence" in (a)(1).

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.40a. Power and authority.

With respect to projects that are subject to this part and projects completed for off-site mitigation or payment in lieu of mitigation, DDOE shall have the authority to:

(1) Monitor, inspect, review, approve, approve with conditions and covenants, and deny approval;

(2) Require monitoring, sampling, analysis, record-keeping and certification of ongoing compliance;

(3) Establish provisions, requirements, and penalties for off-site mitigation or payment in lieu of mitigation options, and for projects that fail to comply with their off-site mitigation or payment-in-lieu-of-mitigation requirements; and

(4) Recover costs, fees and expenses.

(Mar. 26, 2008, D.C. Law 17-138, § 460a, as added Oct. 23, 2012, D.C. Law 19-192, § 2(h), 59 DCR 10174.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 added this section.

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.40b. Savings and transition.

(a) If a conflict exists between the existing stormwater control rules of Chapter 5 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 500 et seq.) and the standards set forth in § 2-1226.36, the standards in § 2-1226.36 shall govern; provided, that neither § 2-1226.36 nor subsection (b) of this section shall apply to projects that have submitted a complete stormwater management plan or first building permit application to the Mayor before October 23, 2012.

(b) Notwithstanding § 2-1226.40, if a conflict should arise between § 2-1226.36 and new stormwater rules promulgated by DDOE, pursuant to § 8-103.20, the new stormwater rules shall supersede § 2-1226.36, except for the following provisions:

(1) Subsections (b)(1)(B), (b)(2), (b)(3), and (b)(5);

(2) Subsection (c)(2);
(3) Subsection (d)(2); and
(4) Subsection (e).

(c) Notwithstanding subsection (b) of this section, subsection (a) of this section shall continue to govern projects that have submitted a complete stormwater management plan or first building permit application to the Mayor before the effective date of those new stormwater rules.

(d) DDOE may issue rules specific to the Anacostia Waterfront Development Zone, including special stormwater mitigation measures that benefit the Anacostia River. The rules shall:

(1) Supersede § 2-1226.36 upon the effective date of rules specific to the Anacostia Waterfront Development Zone, which shall include special stormwater mitigation measures for the zone; and

(2) Be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of this title.

(Mar. 26, 2008, D.C. Law 17-138, § 460b, as added Oct. 23, 2012, D.C. Law 19-192, § 2(h), 59 DCR 10174.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 added this section.

Legislative history of Law 19-192 — See note to § 2-1226.04.

§ 2-1226.41. Rulemaking.

(a) The Mayor may issue rules to implement the requirements of this part.
(b) Repealed.
(c) Repealed.

(Mar. 26, 2008, D.C. Law 17-138, § 461, 55 DCR 1689; Oct. 23, 2012, D.C. Law 19-192, § 2(i), 59 DCR 10174.)

Section references. — This section is referenced in § 2-1226.35.

Effect of amendments. — The 2012 amendment by D.C. Law 19-192 rewrote (a); and repealed (b) and (c).

Legislative history of Law 19-192 — See note to § 2-1226.04.

CHAPTER 14. HUMAN RIGHTS.

Unit A. Human Rights Law.

Subchapter I. General Provisions.

§ 2-1401.01. Intent of Council.

Section references. — This section is referenced in § 1-608.01, § 1-608.01a, § 1-608.59, § 1-632.06, § 2-1403.01, § 2-1431.01, § 2-1535.01, and § 22-3312.02.

CASE NOTES

ANALYSIS

Damages.
Default judgment.
Defenses.
Retaliation.
Statute of limitations.
Weight and sufficiency of evidence.
—In general.

Damages.

Any error in failing to reinstruct jury in response to question seeking additional guidance on awarding damages was harmless in action against District of Columbia (district) by employee under Title VII and the District of Columbia Human Rights Act (DCHRA) in which jury found district liable on a hostile work environment claim but awarded only $1 in nominal damages, as the excerpts that employee presented on appeal from trial transcript did not contain evidence that she suffered pain and suffering resulting from abusive work environment. Ivey v. District of Columbia, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

Though applicable to some claims of negligent infliction of emotional distress, standard jury instruction setting out physical injury or "zone of danger" as a prerequisite to the award of damages for emotional distress is not a proper limitation to the award of damages for mental distress as compensation for injury caused by unlawful discrimination under Title VII or the DCHRA. Ivey v. District of Columbia, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

Default judgment.

Nightclub owner's failure to timely answer disabled individual's complaint was negligent, rather than willful, and thus weighed in favor of vacating default entered against owner in action alleging owner violated Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA) by denying individual entry into nightclub, where owner's members had been involved in dispute over ownership of nightclub, and owner had been unclear as to what each member's interest in nightclub was, who majority members were, and whether certain members would remain with nightclub. Wilson v. Superclub Ibiza, LLC, 279 F.R.D. 176, 2012 U.S. Dist. LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Vacating entry of default entered against nightclub owner would not prejudice disabled individual in action alleging owner violated Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA) by denying individual entry into nightclub, where owner had filed its initial answer one month after entry of default, and minimal delay had not resulted in loss of relevant evidence or witnesses. Wilson v. Superclub Ibiza, LLC, 279 F.R.D. 176, 2012 U.S. Dist. LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Defenses.

Nightclub owner had potentially meritorious defense to disabled individual's claim that it discriminated against her by denying her entry into nightclub, and thus weighed in favor of vacating default entered against owner in action alleging violations of Americans with Disabilities Act (ADA) and District of Columbia Human Rights Act (DCHRA); owner alleged it had denied individual entry into nightclub not because of her claimed medical disability but because she had become "out of control, loud and abusive" and had refused to be searched prior to entry into nightclub pursuant to its security policy. Wilson v. Superclub Ibiza, LLC, 279 F.R.D. 176, 2012 U.S. Dist. LEXIS 13514 (2012), motion denied by 2013 U.S. Dist. LEXIS 38808 (D.D.C. Mar. 20, 2013).

Retaliation.

Police officer plausibly alleged adverse employment action element of her retaliation claims under Title VII and District of Columbia Human Rights Act (DCHRA), where she alleged that she was transferred from district

where she had worked for approximately fifteen years to another district that was less desirable assignment and was farther from her home. Craig v. District of Columbia, 2012 WL 3126779 (2012).

Statute of limitations.

Metropolitan Police Department (MPD) officer's filing of Equal Employment Opportunity Commission (EEOC) charged tolled one-year statute of limitations for her claims under District of Columbia Human Rights Act (DCHRA). Craig v. District of Columbia, 2012 WL 3126779 (2012).

Weight and sufficiency of evidence.

— In general.

To the extent that certain documents proffered by employee in her hostile work environment action against District of Columbia shed light on the egregiousness of the personal-appearance harassment she experienced, any error in excluding the documents from trial in which jury found district liable but awarded nominal damages of only $1 was harmless, given absence of record evidence that employee was personally injured and suffered damages as result of harassment. Ivey v. District of Columbia, 46 A.3d 1101, 2012 D.C. App. LEXIS 311 (2012).

§ 2-1401.02. Definitions.

Section references. — This section is referenced in § 1-603.01, § 1-1001.02, § 2-1411.02, § 2-1535.01, § 4-751.01, § 5-1103, § 7-1231.02, § 16-901, § 22-2104.01, § 22-3701, § 24-112, § 24-403.01, § 31-1601, § 31-2231.01, § 31-2231.11, § 31-2231.13, § 32-401, § 34-1501, and § 51-110.

CASE NOTES

Educational institution.

University's complaint alleged plausible claim for equitable indemnification from former acting dean whose conduct resulted in settled lawsuit by former acting assistant dean against university under ADA, Rehabilitation Act, FMLA, and District of Columbia Human Rights Act (DCHRA); even assuming that federal statutes prohibited employers from bringing causes of action for contribution or indemnification against employees, at least some of appropriate rule of decision was created by state law since former assistant dean's suit included claim under DCHRA, which imposed liability on individuals. Howard University v. Watkins, 2012 WL 1454487 (2012).

§ 2-1401.05. Discrimination based on pregnancy, childbirth, related medical conditions, or breastfeeding.

CASE NOTES

Summary judgment.

Alternative argument by District of Columbia (DC) for affirmance of summary judgment entered in its favor on limitations and notice grounds on former employee's disability discrimination claims under Rehabilitation Act and DC's Human Rights Act, that former employee failed to establish prima facie case of disability discrimination, was premature and thus argument would not be considered by the Court of Appeals; there were unresolved discovery questions raised by former employee in affidavit opposing summary judgment, and his claimed need to depose his former superior was not implausible. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Subchapter II. Prohibited Acts of Discrimination.

PART B.

EMPLOYMENT.

§ 2-1402.11. Prohibitions.

Section references. — This section is referenced in § 2-1401.02.

CASE NOTES

ANALYSIS

Damages.
Discrimination.
—Age, discrimination.
—Disability, discrimination.
—Gender, discrimination.
—Religion, discrimination.
Evidence.
In general.
Instructions.
Statute of limitations.

Damages.

Compensatory damages award of $800,000 for emotional distress, in employment discrimination and sexual harassment action, was not extraordinarily disproportionate to the injuries and losses claimed, where there was sufficient evidence from which a reasonable jury could have found that employee suffered significant mental and physical distress caused by the hostile work environment caused by sexual harassment by a superior, and the jury was properly instructed on compensatory damages. Campbell-Crane & Assocs. v. Stamenkovic, 44 A.3d 924, 2010 D.C. App. LEXIS 788 (2012).

Discrimination.

— Age, discrimination.

District of Columbia's asserted justification for older Metropolitan Police Department (MPD) employee's demotion and replacement with employee who was three years younger at higher rank and pay grade upon her departure, police chief's complete reorganization of MPD Command Staff during her first year in office because she believed that command structure had become "too top heavy" and that it "needed to be downsized," was legitimate and nondiscriminatory, and reasonable jury could not find that explanation was pretextual or that age was a determining factor in challenged employment decisions. Primas v. District of Columbia, 2012 WL 2920862 (2012).

Transfer of 59 year old District of Columbia employee, who had to care for her daughter and ill father, was not based on age or family responsibility discrimination, as would violate the Age Discrimination in Employment Act (ADEA) or District of Columbia Human Rights Act (DCHRA), where employee's entire division was dissolved as part of a substantial office realignment. Blocker-Burnette v. District of Columbia, 842 F.Supp.2d 329, 2012 U.S. Dist. LEXIS 16504 (2012).

Office of Deputy Mayor for Education (ODME) articulated legitimate, nondiscriminatory reason for terminating 62-year-old employee, in action brought under District of Columbia Human Rights Act (DCHRA) for age discrimination against deputy mayor and District of Columbia; ODME underwent reorganization that necessitated reduction in staff, employee was not nearly as qualified for newly designed position as younger coworker, and employee acknowledged that neither deputy mayor or anyone in his staff ever made disparaging age-related or discriminatory comment to her. Cain v. Reinoso, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

— Disability, discrimination.

Campus security officer who injured his ankle in course of performing his duties failed to state viable claim for failure to accommodate disability under District of Columbia Human Rights Act (DCHRA) based on letter threatening to terminate him unless he returned to work by extended date for end of his FMLA leave; he took that leave due to his "stress, anxiety and depression" and not his physical disability, and university had accommodated his leave request twice. Leftwich v. Gallaudet University, 2012 WL 2930725 (2012).

— Gender, discrimination.

Government contractor's employee failed to plausibly allege that she suffered any sex discrimination under District of Columbia Human Rights Act (DCHRA) while employed at facility

in District of Columbia; while she complained of repeated harassment by her supervisor there, she alleged the harassment was based on his mistaken belief that she had destroyed a database, not her gender, and although employee recounted conversation with colleague where she stated that "military males are exempt from hostile behavior from management, unlike female college grads with no prior military experience," she failed to connect any adverse action to her gender. Cole v. Boeing Co., 845 F.Supp.2d 277, 2012 U.S. Dist. LEXIS 26384 (2012).

— Religion, discrimination.

Allegations by employee, who was a Muslim from Morocco, that he complained about discrimination in being removed from serving two floors as a valet dry cleaner, that he was scheduled for only one day of work in the month following his complaint, and that he previously worked anywhere from five to seven days per week were sufficient to plead a materially adverse action, as required for his Title VII and District of Columbia Human Rights Act (DCHRA) retaliation claims against hotel. Arafi v. Mandarin Oriental, 2012 WL 2021889 (2012).

Evidence.

Evidence that deputy mayor for Office of Deputy Mayor for Education (ODME) hired younger worker for new position with understanding that she might be leaving for different job, without more, did not create fact issue whether deputy mayor's reasons for decision to not offer position to 62-year-old employee and to terminate her following reduction and reorganization, namely, because worker had superior qualifications for position and had better performance reviews, were pretext for age discrimination, as required to survive summary judgment in employee's action under District of Columbia Human Rights Act (DCHRA); employee acknowledged that she never heard any comments from deputy mayor or his staff make disparaging or discriminatory comments about her age, deputy mayor had hired three women over age 40, and deputy mayor's hiring/retention practices showed that he hired older workers and had retained other older workers. Cain v. Reinoso, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

Deposition testimony by former employee for Office of Deputy Mayor for Education (ODME) that her performance evaluation by deputy mayor was "bogus," based on unsupported assertions deputy mayor was lying about incident of plagiarism in context of his confirmation hearings and that he had to cover-up lie as to younger worker, who was given position that employee sought, as source of plagiarized material, did not create fact issue as to whether ODME's reasons for terminating 62-year-old employee's position as part of reduction in staff, namely her lack of qualifications for new position and superior qualifications of coworker, were pretext for age discrimination, as required to survive summary judgment on claim of age discrimination under District of Columbia Human Rights Act (DCHRA); there was no evidence on summary judgment indicating that coworker was responsible for plagiarism, his admission to responsibility for plagiarism did not indicate that he was lying when he informed Council that party responsible had been reprimanded, and none of evidence relating to plagiarism incident and delay in deputy mayor's confirmation hearing as result of plagiarism did not refute that coworker was more qualified for position or imply that employee's termination was motivated by age. Cain v. Reinoso, 43 A.3d 302, 2012 D.C. App. LEXIS 158 (2012).

In general.

In addressing employment discrimination claims under the District of Columbia Human Rights Act (DCHRA) and § 1981, courts look to the jurisprudence surrounding Title VII. Young v. Covington & Burling LLP, 846 F.Supp.2d 141, 2012 U.S. Dist. LEXIS 29256 (2012).

Instructions.

Any error in trial court's failure to give nominal damages jury instruction in employment discrimination action was harmless, where the jury awarded employee $800,000, which directly controverts employer's claim that the jury would have awarded a "trifling amount" had the jury been instructed on nominal damages. Campbell-Crane & Assocs. v. Stamenkovic, 44 A.3d 924, 2010 D.C. App. LEXIS 788 (2012).

Statute of limitations.

Letter informing campus security officer that if he could not return to duty after his FMLA leave ended, university could no longer hold his position, which meant he would be terminated based on his inability to return to duty, constituted clear and unequivocal notice to officer of his termination, and his wrongful termination claims under District of Columbia Human Rights Act (DCHRA) filed one year and one day thereafter were thus untimely. Leftwich v. Gallaudet University, 2012 WL 2930725 (2012).

Campus security officer did not state timely claim under District of Columbia Human Rights Act (DCHRA), where he alleged that he was subjected to hostile work environment on basis of race, including racial comments, numerous reprimands, and racial slurs, that his supervisors repeatedly ignored his concerns and instead reprimanded him for being argumentative, insubordinate and unprofessional, and that instead of assisting him in resolving those issues, university repeatedly threatened

his job security; only incident that took place within requisite time frame was letter threatening to terminate him unless he returned to work by extended date for his FMLA leave to end, and rather than being "hostile" that communication was professional and amiable, containing no abusive or inappropriate language. Leftwich v. Gallaudet University, 2012 WL 2930725 (2012).

PART G.

OTHER PROHIBITED PRACTICES.

§ 2-1402.61. Coercion or retaliation.

CASE NOTES

ANALYSIS

Adverse employment action.
Burden of proof.
Causation.
Pleadings.
Protected activities.

Adverse employment action.

Terminated employee presented evidence that employer took an adverse action against employee, as required in order for employee to establish a prima facie case of retaliation against employer under the District of Columbia Human Rights Act (DCHRA), where there was evidence that, though it had agreed to negotiate a consulting agreement with employee after his termination in order to pursue $12 million in federal funding earmarked for an initiative proposed by employee, employer, after employee's attorney alleged that employee had been terminated based on his age and ethnicity, refused to negotiate the consulting agreement unless employee first released his discrimination claims. Propp v. Counterpart Int'l, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Burden of proof.

Terminated employee presented evidence that the refusal of employer to negotiate contemplated consulting agreement with employee until terminated employee released his discrimination claims, which followed employee's attorney's alleging that employee was terminated based on his age and ethnicity, was not based on a legitimate nonretaliatory business reason, as required to prevent the burden of proof from shifting back to employee under the McDonnell Douglas framework when employee produced sufficient evidence to establish a prima facie retaliation case against employer under the District of Columbia Human Rights Act (DCHRA), as there was evidence that employer was willing to negotiate the consulting agreement without the prerequisite of a release before employee's attorney's allegation. Propp v. Counterpart Int'l, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Under the McDonnell Douglas framework, a plaintiff asserting a retaliation claim in violation of the District of Columbia Human Rights Act (DCHRA) bears the initial burden of producing evidence to sustain a prima facie case; if the plaintiff satisfies this burden, the employer must then produce evidence of a legitimate, nonretaliatory reason for its action, and, if the employer offers a legitimate, nonretaliatory reason, the burden then shifts back to the plaintiff to present evidence that the employer's proffered reason is pretextual. Propp v. Counterpart Int'l, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Causation.

Terminated employee presented evidence that there was a causal relationship between an adverse action taken by employer and employee's protected activity, as required in order for employee to establish a prima facie case of retaliation against employer under the District of Columbia Human Rights Act (DCHRA), where employer, shortly after employee's attorney alleged that employee had been terminated based on his age and ethnicity, refused to negotiate a previously proposed consulting agreement with employee unless employee signed a release, and deposition testimony by employer's chief executive officer (CEO) and president indicated that employer changed positions and required a release as a prerequisite for negotiating a consulting agreement as a result of the allegation by employee's attorney. Propp v. Counterpart Int'l, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Pleadings.

Under District of Columbia law, terminated university employee who alleged she was discharged for reporting co-employee's sexual harassment of her failed to state facially plausible claim against her former employer for wrongful

discharge in violation of public policy; she pointed to no statute or regulation in support of her claim, and anti-retaliation provisions of Title VII or District of Columbia Human Rights Act could not serve as predicates for common law wrongful discharge claim, as those statutes provided their own express remedies for misconduct. Hoskins v. Howard Univ., 839 F.Supp.2d 268, 2012 U.S. Dist. LEXIS 37047 (2012).

Protected activities.

Terminated employee engaged in protected activity, as required to establish a prima facie case of retaliation under the District of Columbia Human Rights Act (DCHRA), where employee's attorney, while employee and employer were negotiating a contemplated consulting agreement following his termination, notified the employer that he believed that employee was terminated based on his age and ethnicity in violation of the DCHRA and the Age Discrimination in Employment Act. Propp v. Counterpart Int'l, 39 A.3d 856, 2012 D.C. App. LEXIS 86 (2012).

Subchapter III. Procedures.

§ 2-1403.02. Complaints; independent action by other District agencies.

CASE NOTES

Notice.

While lesbian officers' reports filed with Metropolitan Police Department (MPD), MPD Medical Service Division memoranda written in response to reports, and Internal Affairs Division (IAD) investigative records created in response to officers' internal EEO complaints qualified as reports "in regular course of duty," content of those reports did not, individually or collectively, provide sufficient notice to Mayor of cause or circumstances underlying claims for unliquidated damages under District of Columbia Human Rights Act (DCHRA) based on sex discrimination and sexual orientation discrimination regarding officer's nonpromotion; however, officers could still seek liquidated damages, including back pay, under those counts. Jones v. District of Columbia, 2012 WL 3024970 (2012).

§ 2-1403.16. Private cause of action.

Section references. — This section is referenced in § 2-1403.03 and § 2-1403.05.

CASE NOTES

ANALYSIS

Contracts.
Notice.
Statute of limitations.

Contracts.

Former student was not entitled to amend his complaint alleging that university breached agreement formed when he accepted its offer of acceptance by dismissing him from medical school to add additional breach of contract claims, where student had previously sought leave to amend to add claims, but failed to promptly rectify deficiencies identified by university, and expressly disclaimed any intention of pursuing breach of contract claim predicated on anything beyond offer of acceptance, motion was not filed until seventeen months after action's commencement, student had already amended complaint twice, and granting leave to amend would have radically expanded scope of his breach of contract claims. Hajjar-Nejad v. George Washington University, 2012 WL 89973 (2012).

Notice.

Letter informing campus security officer that if he could not return to duty after his FMLA leave ended, university could no longer hold his position, which meant he would be terminated based on his inability to return to duty, constituted clear and unequivocal notice to officer of his termination, and his wrongful termination claims under District of Columbia Human Rights Act (DCHRA) filed one year and one day thereafter were thus untimely. Leftwich v. Gallaudet University, 2012 WL 2930725 (2012).

Statute of limitations.

Metropolitan Police Department (MPD) officer's filing of Equal Employment Opportunity

Commission (EEOC) charged tolled one-year statute of limitations for her claims under District of Columbia Human Rights Act (DCHRA). Craig v. District of Columbia, 2012 WL 3126779 (2012).

Appropriate statute of limitations for former District of Columbia (DC) employee's disability discrimination claims against DC under Rehabilitation Act, which did not specify the applicable limitations period, was the one-year limitations period set out in District of Columbia's Human Rights Act (HRA) for claims of unlawful discrimination, as opposed to default choice of DC's three-year limitations period for personal injury claims; a Rehabilitation Act claim was far more similar to an HRA claim than it was to an ordinary personal injury claim, and borrowing HRA's limitations period would not stymie policies underlying Rehabilitation Act. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

CHAPTER 15. YOUTH AFFAIRS.

Subchapter I-A. Department of Youth Rehabilitation Services

Subchapter I-C. Youth Behavioral Health

Part A

Youth Behavioral Health Epidemiology Report

Part B

Early Childhood and School-Based Behavioral Health Infrastructure

Part C

Child Welfare and Juvenile Justice Behavioral Health Infrastructure

Subchapter II-C. Youth Bullying Prevention

Subchapter IV-A. Youth Council of the District of Columbia

Subchapter VII. Interagency Collaboration and Services Integration Commission

Subchapter I-A. Department of Youth Rehabilitation Services.

§ 2-1515.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Aftercare services" means programs and services designed to provide care, supervision, and control over children released from facilities.

(1A) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(1B) "Behavioral health assessment" means a more thorough and comprehensive examination by a mental health professional of all behavioral health

issues and needs identified during an initial behavioral health screening by which the mental health professional shall identify the type and extent of the behavioral health problem and make recommendations for treatment interventions.

(1C) "Behavioral health screening" means a brief process designed to identify youth who are at risk of having behavioral health disorders that warrant immediate attention, or intervention, or to identify the need for further assessment with a comprehensive examination.

(2) "Committed" means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(3) "Contracted provider" means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department's care and custody.

(4) "Conviction" means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of nolo contendere, or a plea of guilty to a criminal charge enumerated in § 2-1515.05(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5)(A) "Custody" means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

(i) Physical custody and the determination of where and with whom the minor shall live;

(ii) The right and duty to protect, train, and discipline the minor; and

(iii) The responsibility to provide the minor with food, shelter, education, and ordinary medical care.

(B) A Family Court order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) "Department" means the Department of Youth Rehabilitation Services.

(7) "Detained" means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with § 16-2312.

(8) "Facilities" means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(10) "Person in Need of Supervision" or "PINS" means a "child in need of supervision" as that term is defined by § 16-2301(8).

(11) "Rehabilitative services" means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic

competency skills necessary to reintegrate into their home and community-based settings.

(12) "Youth" means a "child" as that term is defined by § 16-2301(3). The terms "juvenile," "child," and "resident" appearing in this subchapter are used interchangeably.

(13) "Youth residential facility" means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to § 16-2312 or a dispositional hearing held pursuant to § 16-2317.

(Apr. 12, 2005, D.C. Law 15-335, § 101, 52 DCR 2025; June 7, 2012, D.C. Law 19-141, § 504(a), 59 DCR 3083.)

Effect of amendments. — D.C. Law 19-141 added pars. (1A), (1B), and (1C).

Legislative history of Law 19-141. — Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

§ 2-1515.04. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and

rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths, needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state-of-the-art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system;

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department; and

(14) Conducting a behavioral health screening and assessment as required in § 2-1215.04a.

(Apr. 12, 2005, D.C. Law 15-335, § 104, 52 DCR 2025; June 7, 2012, D.C. Law 19-141, § 504(b), 59 DCR 3083.)

Effect of amendments. — D.C. Law 19-141 deleted "and" from the end of par. (12), substituted "; and" for a period the end of par. (13), and added par. (14).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1515.01.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

§ 2-1515.04a. Behavioral health screening and assessment requirements.

(a) All youth in contact with the Department shall, to the extent that it is not inconsistent with a court order, receive a behavioral health screening and, if necessary, a behavioral health assessment within 30 days of initial contact; provided, that the Mayor may, through rulemaking, require that the behavioral health screening and assessment be conducted within fewer than 30 days of the initial contact.

(b) For the purposes of this section, the term "youth" means an individual under 18 years of age residing in the District and those individuals classified as committed youth in the custody of the Department who are 21 years of age or younger.

(Apr. 12, 2005, D.C. Law 15-335, § 104a, as added June 7, 2012, D.C. Law 19-141, § 504(c), 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1515.01.

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

§ 2-1515.06. Confidentiality of youth records.

(a)(1) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall be released only in accordance with this subsection.

(2) Juvenile case records shall be released only to persons and entities permitted to inspect those records under § 16-2331 and in accordance with the procedures governing the release of records under that section.

(3) Juvenile social records shall be released only to persons and entities permitted to inspect those records under § 16-2332 and in accordance with the procedures governing the release of records under that section.

(4) Law enforcement records shall be released only to person and entities permitted to inspect those records under § 16-2333 and in accordance with the procedures governing the release of records under that section.

(5) All other Department records pertaining to youth in the custody of the Department shall be released only to persons and entities permitted to inspect juvenile social records under D.C. Official Code § 16-2332 and in accordance with the procedures governing the release of records under that section.

(b) Notwithstanding the confidentiality requirements of this section, the

Mayor may establish rules for the disclosure of electronic Department data to other District government agencies statutorily charged with the care, treatment, and rehabilitation of youth in the District's custody for purposes of coordination care, treatment, and rehabilitation services for youth and Department tracking and trending reports; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated in this subsection.

(c)(1) Notwithstanding the confidentiality requirements of this section, or any other provision of law, the Chairman of the Committee on Human Services, Members of the Committee on Human Services, and the Mayor, or their designees, shall be permitted to obtain the records pertaining to youth in the custody of the Department regardless of the source of the information contained in those records, when necessary for the discharge of their duties; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated pursuant to subsection (b) of this section.

(2) A Member of the Committee on Human Services shall notify the Chairman of the Committee on Human Services upon requesting a record pursuant to paragraph (1) of this subsection.

(d) Notwithstanding the confidentiality requirements of this section, or any other provision of law, the Metropolitan Police Department is authorized to obtain records pertaining to youth in the custody of the Department, other than juvenile case records as defined in § 16-2331 and juvenile social records as defined in § 16-2332, for the purpose of investigating a crime allegedly involving a youth in the custody of the Department. The confidentiality of any information disclosed to the Metropolitan Police Department pursuant to this subsection shall be maintained pursuant to § 16-2333.

(Apr. 12, 2005, D.C. Law 15-335, § 106, 52 DCR 2025; Sept. 23, 2009, D.C. Law 18-50, § 2, 56 DCR 5487; Mar. 8, 2011, D.C. Law 18-284, § 2, 57 DCR 10477; Sept. 26, 2012, D.C. Law 19-171, § 21, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "D.C. Official Code § 16-2332" for "section 16-2332" in (a)(5).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 2-1515.06a. Quarterly report on status of Medicaid eligibility.

Beginning February 1, 2012, the Department shall issue quarterly reports on the status of the Money Follows the Person program. The report shall include the following:

(1) The number of applications submitted for Medicaid;

(2) The number of applications approved for Medicaid; and

(3) The amount of money obtained from Medicaid.

(Apr. 12, 2005, D.C. Law 15-335, § 106a, as added Sept. 14, 2011, D.C. Law 19-21, § 5064, 58 DCR 6226; Sept. 26, 2012, D.C. Law 19-171, §§ 22, 23, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 clarified that D.C. Law 19-21, § 5064, added D.C. Law 15-335, § 106a; and substituted "the Department shall" for "DYRS shall" in the introductory language.

Legislative history of Law 19-171. — See note to § 2-1515.06.

Subchapter I-C. Youth Behavioral Health.

PART A.

YOUTH BEHAVIORAL HEALTH EPIDEMIOLOGY REPORT.

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§ 2-1517.01. Definitions.

For the purposes of this part, the term:

(1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(2) "Youth" means individuals under 18 years of age residing in the District and those individuals classified as youth in the custody of the Department of Youth Rehabilitation Services and the Child and Family Services Agency who are 21 years of age or younger.

(June 7, 2012, D.C. Law 19-141, § 102, 59 DCR 3083.)

Emergency legislation. — For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section 601 of D.C. Law 19-141, see § 7004 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-141. — Law 19-141, the "South Capitol Street Memorial Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-211, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 6, 2012, and March 20, 2012, respectively. Signed by the Mayor on April 10, 2012, it was assigned Act No. 19-344 and transmitted to both Houses of Congress for its review. D.C. Law 19-141 became effective on June 7, 2012.

Editor's notes. — Section 601 of D.C. Law 19-141 provided: "Sec. 601. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

Section 7004 of D.C. Law 19-168 amended D.C. Law 19-141, § 601, to read as follows:

"Sec. 601. Applicability. Sections 302(b)(1), 304, and 502(a) shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan."

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

§ 2-1517.02. Youth behavioral health epidemiological report.

By March 30, 2013, and every 5 years thereafter, the Mayor shall submit a report to the Council on the behavioral health of District youth. At minimum, the report shall include:

(1) The type and prevalence of behavioral health conditions among youth broken down, if possible, by age, gender, race, ward residence, and sexual orientation;

(2) The level of utilization of behavioral health services by youth and the location of the services accessed; and

(3) An analysis of any barriers or obstacles preventing youth from accessing behavioral health services and recommendations for making the services more accessible.

(June 7, 2012, D.C. Law 19-141, § 103, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

PART B.

EARLY CHILDHOOD AND SCHOOL-BASED BEHAVIORAL HEALTH INFRASTRUCTURE.

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§ 2-1517.31. Definitions.

For the purposes of this part, the term:

(1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.

(2) "Health education standards" means the specific learning requirements related to health that the Office of the State Superintendent of Education requires students to learn at each academic level, from pre-K through 12th grade.

(June 7, 2012, D.C. Law 19-141, § 202, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

§ 2-1517.32. Early childhood and school-based behavioral health comprehensive plan.

By March 30, 2013, the Mayor shall submit a comprehensive plan to the Council for the expansion of early childhood and school-based behavioral health programs and services by the 2016-2017 school year. At minimum, the plan shall:

(1) Establish a strategy to enhance behavioral health services in all public schools and public charter schools, including:

(A) The implementation of programs that:

(i) Include interventions for families of students with behavioral health needs;

(ii) Reduce aggressive and impulsive behavior; and

(iii) Promote social and emotional competency in students; and

(B) The expansion of school-based mental health services as follows:

(i) By the 2014-2015 school year, services are available to at least 50% of all public and public charter school students;

(ii) By the 2015-2016 school year, services are available to at least 75% of all public and public charter school students; and

(iii) By the 2016-2017 school year, services are available to all public and public charter school students;

(2) Include an analysis of whether current health education standards align with actual behavioral health needs of youth and any recommendations for proposed changes; and

(3) Provide recommendations for the expansion of behavioral health programs and services at child development facilities.

(June 7, 2012, D.C. Law 19-141, § 203, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

PART C.

CHILD WELFARE AND JUVENILE JUSTICE BEHAVIORAL HEALTH INFRASTRUCTURE.

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§ 2-1517.51. Family resource guide.

(a) By October 1, 2013, the Mayor shall create a comprehensive resource guide for families who come into contact with the child welfare or juvenile justice systems. The guide shall include:

(1) A clear explanation of the rights and responsibilities of children and families;

(2) The role of District agencies, including the:

(A) Child and Family Services Agency;

(B) Department of Youth Rehabilitation Services;

(C) Department of Mental Health; and

(D) Department of Health Care Finance;

(3) The role of the courts;

(4) District government and non-governmental resources related to behavioral health, including contact information; and

(5) Websites for District government agencies and nongovernment resources related to behavioral health.

(b) The resource guide shall be:

(1) Made publicly available on the Internet;

(2) Updated as necessary, along with updates of the information described in subsection (a)(4) and (5) of this section; and

(3) Made available to other District agencies for distribution.

(June 7, 2012, D.C. Law 19-141, § 502, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Editor's notes. — Section 601 of D.C. Law 19-141 originally provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that the applicability of only §§ 302(b)(1), 304, and 502(a) are contingent upon the inclusion of their fiscal effect in an approved budget and financial plan.

§ 2-1517.52. Department of Youth Rehabilitation Services behavioral health and compliance report.

The Mayor shall submit a report to the Council by March 30 of each year, which shall include:

(1) The number of youth:

(A) Who were committed to the Department of Youth Rehabilitation Services ("DYRS") during the previous calendar year;

(B) Who received the required behavioral health screening;

(C) Whose behavioral health screening indentified a need for further behavioral health assessment;

(D) Who received a behavioral health assessment; and

(E) Who were referred to appropriate services;

(2) The reasons why a committed youth in DYRS did not receive the required behavioral health screening or behavioral health assessment, if any; and

(3) If necessary, recommendations on how DYRS can ensure that all of its committed youth are receiving the required behavioral health screenings and behavioral health assessments along with an estimate of the time it will take to meet that requirement.

(June 7, 2012, D.C. Law 19-141, § 503, 59 DCR 3083.)

Legislative history of Law 19-141. — For history of Law 19-141, see notes under § 2-1517.01.

Editor's notes. — Section 601 of D.C. Law 19-141, as amended by D.C. Law 19-168, § 7004, provided that §§ 302(b)(1), 304, and

502(a) of the act shall apply upon the inclusion of their fiscal effect in an approved budget and financial plan.

Subchapter II-C. Youth Bullying Prevention.

§ 2-1535.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Agency" means a District government entity that provides services, activities, or privileges to youth, including the:

(A) Office of the State Superintendent of Education;

(B) Department of Parks and Recreation;

(C) District of Columbia Public Library; and

(D) University of the District of Columbia.

(2)(A) "Bullying" means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal that:

(i) May be based on a youth's actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, place of residence or business, or any other distinguishing characteristic, or on a youth's association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(ii) Can be reasonably predicted to:

(I) Place the youth in reasonable fear of physical harm to his or her person or property;

(II) Cause a substantial detrimental effect on the youth's physical or mental health;

(III) Substantially interfere with the youth's academic performance or attendance; or

(IV) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by an agency, educational institution, or grantee.

(B) For the purposes of this paragraph, the terms "familial status," "family responsibilities," "gender identity or expression," "genetic information," "intrafamily offense," "marital status," "matriculation," "personal appearance," "political affiliation," "sexual orientation," and "source of income" shall have the same meaning as provided in § 2-1401.02.

(3) "Educational institution" means any local education agency that receives funds from the District of Columbia.

(4) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, tablet, pager, or video or audio recording.

(5) "Employee" means an individual who performs a function for the District government for an agency, educational institution, or grantee who receives compensation for the performance of that function.

(6) "Grantee" means an entity or a contractor of an entity that, on behalf of the District government or through District funding, provides services, activities, or privileges to youth.

(7) "Human Rights Act" means Unit A of Chapter 14 [§ 2-1401.01 et seq.].

(8) "Party" means a person accused of bullying, a target of bullying, or a parent or guardian of either a person accused of bullying or a target of bullying.

(9) "Youth," depending on the context, means:

(A) An individual of 21 years of age or less who is enrolled in an educational institution or who accesses the services or programs provided by an agency or grantee, or an individual of 22 years of age or less who is receiving special education services from an educational institution; or

(B) Individuals as described in subparagraph (A) of this paragraph considered as a group.

(Sept. 14, 2012, D.C. Law 19-167, § 2, 59 DCR 7820.)

Section references. — This section is referenced in § 2-1535.03.

Legislative history of Law 19-167. — Law 19-167, the "Youth Bullying Prevention Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 1, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-384 and transmitted to Congress for its review. D.C. Law 19-167 became effective on Sept. 14, 2012.

§ 2-1535.02. Bullying prevention task force.

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

(A) Teachers;

(B) Administrators from educational institutions and agencies;

(C) School mental health professionals;

(D) Parents, and legal guardians;

(E) Youth;

(F) Direct service providers; and

(G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

(5) Within 180 days of receipt of the bullying prevention policies submit-

ted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b); and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband 2 years after its initial meeting; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

(Sept. 14, 2012, D.C. Law 19-167, § 3, 59 DCR 7820.)

Section references. — This section is referenced in § 2-1535.03.

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.03. Bullying prevention policy.

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

(1) On its property, including electronic communication on, or with, its property;

(2) At sponsored functions;

(3) On its transportation, or transportation sponsored by it; and

(4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(1) The definition of bullying set forth in § 2-1535.01(2);

(2) A statement prohibiting bullying;

(3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;

(4) The expected code of conduct;

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(A) Appropriately correct the bullying behavior;

(B) Prevent another occurrence of bullying or retaliation;

(C) Protect the target of the bullying;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying;

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

(c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).

(d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

(1) Discussing its bullying policy with youth; and

(2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

(Sept. 14, 2012, D.C. Law 19-167, § 4, 59 DCR 7820.)

Section references. — This section is referenced in § 2-1535.02, § 2-1535.04, § 2-1535.05, and § 2-1535.06.

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.04. Secondary investigation appeal.

(a)(1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to § 2-1535.03(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to § 2-1535.03(b)(7).

(2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:

(A) Circumstances require additional time to complete a thorough investigation;

(B) The higher-level authority sets forth those circumstances in writing; and

(C) The additional time does not exceed 15 days.

(b)(1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.

(2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

(Sept. 14, 2012, D.C. Law 19-167, § 5, 59 DCR 7820.)

Section references. — This section is referenced in § 2-1535.03.

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.05. Retaliation.

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

(Sept. 14, 2012, D.C. Law 19-167, § 6, 59 DCR 7820.)

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.06. Bullying prevention programs.

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

(1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;

(2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and

(3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

(Sept. 14, 2012, D.C. Law 19-167, § 7, 59 DCR 7820.)

Section references. — This section is referenced in § 2-1535.02.

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.07. Reporting requirement.

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee

to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

(Sept. 14, 2012, D.C. Law 19-167, § 8, 59 DCR 7820.)

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.08. Availability of other remedies.

This subchapter does not create a new private right of action or provide a statutory basis for a claim for damages against the District of Columbia or its employees.

(Sept. 14, 2012, D.C. Law 19-167, § 9, 59 DCR 7820.)

Legislative history of Law 19-167. — See note to § 2-1535.01.

§ 2-1535.09. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

(Sept. 14, 2012, D.C. Law 19-167, § 10, 59 DCR 7820.)

Emergency legislation. — For temporary addition of provisions concerning a juvenile drug screening and treatment diversion plan, see § 513 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

Legislative history of Law 19-167. — See note to § 2-1577.01.

Subchapter IV-A. Youth Council of the District of Columbia.

§ 2-1565.06. Funding.

(a) Gifts, grants, and donations from private or public sources may be used to fund the costs of the Youth Council. Contributions to support the work of the Youth Council may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied by the Youth Council or who would in any way compromise the work of the Youth Council.

(b) A person, other than a District of Columbia agency, desiring to make a financial or in-kind contribution must certify to the Council, or its designee, in the manner prescribed by the Council, that the person has no pecuniary or other vested interest in the outcome of the work of the Youth Council. All contributions are subject to approval by the Council, or its designee.

(c) The Secretary to the Council shall administer any funds received by the Youth Council. Prior to the beginning of each fiscal year, the Secretary shall

notify the Youth Planner and Chair of the Youth Council of the status of funding.

(Oct. 22, 2008, D.C. Law 17-251, § 7, 55 DCR 9247; Sept. 26, 2012, D.C. Law 19-171, § 24, 59 DCR 6190.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-171 redesignated former (a)(1) through (a)(3) as (a) through (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Subchapter VII. Interagency Collaboration and Services Integration Commission.

§ 2-1594. Commission; establishment; authority.

(a) There is established the Statewide Commission on Children, Youth, and their Families.

(b) Unless expressly prohibited in law or regulation, the Commission shall have the authority to:

(1) Combine local, federal, and other resources available to the participating education, law enforcement, and human services agencies to provide comprehensive multi-disciplinary assessments, integrated services, and evidence-based programs, as required by this subchapter;

(2) Apply for, receive, and disburse federal, state, and local funds relating to the duties and responsibilities of the Commission;

(3) Utilize the funding provided pursuant to subchapter III-A of Chapter 13 of Title 4 [§ 4-1345.01 et seq.];

(4) Exercise personnel authority for all employees of the Commission, consistent with Chapter 6 of Title 1 [§ 1-601.01 et seq.]; and

(5) Exercise procurement authority, consistent with Chapter 3A of Title 2 [§ 2-351.01 et seq.]; except, that § 2-352.01(a) shall not apply.

(June 12, 2007, D.C. Law 17-9, § 504, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(c), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 207, 59 DCR 6190.)

Section references. — This section is referenced in § 2-1592 and § 38-271.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "Chapter 3A of Title 2; except, that § 2-352.01(a) shall not apply" for "Unit A of Chapter 3 of Title 2; except, that the provisions of § 2-301.05(a), (b), (c), and (e) shall not apply" in (b)(5).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Editor's notes. — Section 5072 of D.C. Law 19-168 provided for the establishment of the Safe Children and Families Enrichment Services Task Force.

Section 5073 of D.C. Law 19-168 provided that §§ 5071 and 5072 of the act shall expire 6 months after September 20, 2012.

§ 2-1595. Duties.

(a) Within 90 days of the applicability of this subchapter, the Commission shall:

(1) Develop an information-sharing agreement that:

(A) Adheres to all applicable provisions of federal and District law and professional standards regarding confidentiality, including Commission procedures and protocols for safeguarding confidential and other child-related information;

(B) Uses a form created by the Commission for obtaining consent to assessment and disclosure of confidential information from a participant or the parent or legal guardian of the participant to education, law enforcement, and human service agencies; and

(C) Permits Commission personnel to collect information from agencies participating in the agreement to facilitate comprehensive multi-disciplinary assessments and the development and implementation of integrated service plans;

(2) Develop procedures and protocols for safeguarding confidential and other participant-related information, documents, files, electronic communications, and computer data, including:

(A) Procedures for determining when a fully informed and written consent to assessment and disclosure of confidential information is provided by a participant or the parent or legal guardian of the participant; and

(B) The circumstances and manner in which confidential information collected and maintained by designated personnel of the Commission may be disclosed, as permitted by applicable provisions of local and federal law, to:

(i) Other personnel of the Commission for the exclusive purposes of conducting comprehensive, multi-disciplinary assessments of children or creating and implementing integrated service plans for children; and

(ii) Education, law enforcement, human service agencies, or other service providers identified in the disclosure consent for the exclusive purpose of creating and implementing integrated service plans; and

(3) Identify a comprehensive, multi-disciplinary assessment instrument that shall be used by school-based clinicians to:

(A) Determine the extent to which children are affected by risk and protective factors as individuals and as members of families, communities, and schools;

(B) Determine the extent to which children have service needs resulting from emotional disturbance, substance abuse, exposure to violence, or learning disabilities;

(C) Provide therapeutic interventions; and

(D) Assist in the development of integrated service plans;

(b)(1) All programs shall be evidence-based, age-appropriate, and implemented to serve children and their families and shall include:

(A) Early childhood psycho-social and emotional development assistance;

(B) School-based violence and substance abuse prevention;

(C) Social and emotional learning assistance;

(D) Family resiliency and strengthening assistance; and

(E) Services that are designed to reduce local reliance on out-of-home placement of children under the age of 18.

(2) The Commission shall determine the extent to which the District has preventive and early interventive evidence-based programs that already meet some or all of the requirements of paragraph (1) of this subsection and assist education, law enforcement, and human service agencies in the implementation of needed preventive and early interventive programs for children and their families.

(c) The Commission shall:

(1) Have authority over an interagency database housed in a secure location to store assessment information, data gathered pursuant to the information-sharing agreement described in subsection (a) of this section, and any other data relevant to service integration and the ongoing assessment of programs implemented or supported by the Commission;

(2) Conduct an annual independent evaluation of the effectiveness of the programs supported, facilitated, or overseen by the Commission, including:

(A) The impact on academic performance, levels of violence by and against children, truancy, and delinquency; and

(B) The cost effectiveness of the programs, taking into account such factors as reductions, or potential reductions, in out-of-home placements and in law enforcement expenditures, and the extent to which the Commission's member agencies have developed the capacity to sustain the programs and activities;

(3)(A) Report, on an annual basis, within 90 days after the end of the fiscal year, to the Mayor and the Council on the status and progress of the efforts to meet the objectives of the Commission, including a description of activities, alignment with the statewide education and youth development framework and strategic plan, and the results of the evaluation required by paragraph (2) of this subsection and any recommendations made by the Commission to the public, the Mayor, or the Council;

(B) In calendar year 2012, the evaluation required by paragraph (2) of this subsection shall also be included in the assessment required by § 38-193(b);

(4) The Commission shall consult with the Office of the State Superintendent of Education to ensure that eligible families can access comprehensive and coordinated services for their children of pre-k age, as that term is defined in § 38-271.01(7);

(5) Develop goals and determine priorities for children, youth, and their families, based on established annual benchmarks and goals that are reported as part of the Deputy Mayor for Education's agency performance measures;

(6) Meet at least 4 times a year; and

(7) Make available on the Deputy Mayor for Education's website:

(A) An updated list and description of ongoing initiatives and subcommittees of the Commission;

(B) An agenda of topics to be discussed, along with all supporting

documentation, which shall also be distributed to the members of the Commission at least 48 hours in advance of a Commission meeting, which includes:

(i) The relevant action steps;

(ii) An implementation status report; and

(iii) Any other data relevant to the Commission's meeting; and

(C) Within 2 weeks of each Commission meeting, the minutes of, and action steps determined at, the meeting.

(June 12, 2007, D.C. Law 17-9, § 505, 54 DCR 4102; July 18, 2008, D.C. Law 17-202, § 601, 55 DCR 6297; Mar. 3, 2010, D.C. Law 18-111, § 4061(d), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 25(a), 59 DCR 6190.)

Effect of amendments. The 2012 amendment by D.C. Law 19-171 validated previously made punctuation corrections in (c)(3)(A) and (c)(4).

Legislative history of Law 19-171. — See note to § 2-1594.

§ 2-1596. Membership.

(a) The Commission shall include the:

(1) Mayor, who shall serve as Chair;

(2) Chairman of Council of the District of Columbia;

(3) Chair of the Committee on Human Services;

(4) Chief Judge, Family Court, Superior Court of the District of Columbia;

(5) Deputy Mayor for Education;

(6) City Administrator;

(7) State Superintendent of Education;

(8) Chancellor of the District of Columbia Public Schools;

(9) Chair of the Public Charter School Board;

(10) Director of the Department of Human Services;

(11) Director of the Child and Family Services Agency;

(12) Director of the Department of Youth Rehabilitation Services;

(13) Director of the Department of Corrections;

(14) Director of the Department of Health;

(15) Director of the Department of Mental Health;

(16) Chief of the Metropolitan Police Department;

(17) Director of the Court Social Services Agency;

(18) Attorney General for the District of Columbia;

(19) Director of the Criminal Justice Coordinating Council;

(20) Director of the Department of Parks and Recreation;

(21) Director of the District of Columbia Public Library;

(22) Executive Director of the Children and Youth Investment Trust Corporation;

(23) President of the State Board of Education; and

(24) In consultation with youth service advocates and organizations throughout the community, 5 members from the community, appointed by the Mayor, in accordance with subsection (c) of this section.

(b) The Mayor, by order, may appoint additional members to the Commission, as necessary.

(c)(1) The members of the community appointed pursuant to subsection (a)(24) of this section shall include:

(A) A local funder of youth service and development activities;

(B) A representative of the early childhood education community;

(C) A representative of the youth service provider community;

(D) A representative from the post-secondary preparedness community; and

(E) An expert on primary and secondary education policy.

(2) Members of the community appointed pursuant to subsection (a)(24) of this section may be rotated or changed based upon the agenda for each Commission meeting.

(June 12, 2007, D.C. Law 17-9, § 506, 54 DCR 4102; Mar. 3, 2010, D.C. Law 18-111, § 4061(e), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 25(b), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made punctuation correction.

The 2012 amendment by D.C. Law 19-171 validated a previously made punctuation correction in (a)(21).

Legislative history of Law 19-171. — See note to § 2-1594.

CHAPTER 16. PUBLIC DEFENDER SERVICE.

§ 2-1602. Persons who may be represented; appointment of private attorneys; determination of financial eligibility.

(a)(1) The Service is authorized to represent any person in the District of Columbia who is a person described in any of the following categories and who is financially unable to obtain adequate representation:

(A) Persons charged with an offense punishable by imprisonment for a term of 6 months, or more;

(B) Persons charged with violating a condition of probation or parole;

(C) Persons subject to proceedings pursuant to Chapter 5 of Title 21 (Hospitalization of Persons with Mental Illness);

(D) Persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. § 3411 et seq.) [repealed] or the provisions of Chapter 7, of Title 24;

(E) Juveniles alleged to be delinquent or in need of supervision;

(F) Persons subject to proceedings pursuant to § 24-607 (relating to commitment of chronic alcoholics by court order for treatment);

(G) Persons subject to proceedings pursuant to § 24-501 (relating to confinement of persons acquitted on the ground of insanity); or

(H) Persons incarcerated in District of Columbia corrections facilities, not including community residential facilities or community-based corrections facilities, in administrative matters related to their incarceration before any court or administrative body.

(2) The Service shall not represent an inmate in a suit for damages against the District of Columbia or its employees for conduct within the scope of their employment, nor shall it represent an inmate in a suit in which the payment of attorney's fees or costs is sought against the District of Columbia or its employees for conduct within the scope of their employment. Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons who are annually determined to be financially unable to obtain adequate representation and who are persons described in the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons described in subsection (a) of this section, but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(July 29, 1970, 84 Stat. 654, Pub. L. 91-358, title III, § 302; Dec. 10, 1987, D.C. Law 7-52, § 2(a), (b), 34 DCR 6891; Sept. 26, 2012, D.C. Law 19-169, § 7, 59 DCR 5567.)

Effect of amendments. — The 2012 amendment by D.C. Law 19-169 substituted "Persons with Mental Illness" for "the Mentally Ill" in (a)(1)(C).

Legislative history of Law 19-169. — Law 19-169, the "People First Respectful Language Modernization Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-189. The Bill was adopted on first and second readings on Mar. 6, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-361 and

transmitted to Congress for its review. D.C. Law 19-169 became effective on Sept. 26, 2012.

Editor's notes. — Section 35 of D.C. Law 19-169 provided that no provision of the act shall impair any right or obligation existing under law.

§ 2-1607. Appropriation; public grants and private contributions.

(a) There are authorized to be appropriated to the Service in each fiscal years such funds as may be necessary to carry out this chapter. The Service may arrange by contract or otherwise for the disbursement of appropriated funds, procurement, and the provision of other administrative support functions by the General Services Administration or by other agencies or entities, not subject to the provisions of the District of Columbia Code or any law or regulation adopted by the District of Columbia Government concerning disbursement of funds, procurement, or other administrative support functions. The Service shall submit an annual appropriations request to the Office of Management and Budget.

(b) Upon approval of the Board of Trustees, the Service may accept public grants and private contributions made to assist it in carrying out the provisions of this chapter.

(c) The Service shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations act.

(d) During fiscal years 2006 through 2008, the Service may charge fees to cover the costs of materials distributed to attendees of educational events, including conferences, sponsored by the Service. Notwithstanding section 3302 of title 31, United States Code [31 U.S.C. § 3302], any amounts received as fees under this subsection shall be credited to the Service and available for use without further appropriation.

(e) The Service shall, to the extent the Director considers appropriate, provide representation for and hold harmless, or provide liability insurance for, any person who is an employee, member of the Board of Trustees, or officer of the Service for money damages arising out of any claim, proceeding, or case at law relating to the furnishing of representational services or management services or related services under this chapter while acting within the scope of that person's office or employment, including but not limited to such claims, proceedings, or cases at law involving employment actions, injury, loss of liberty, property damage, loss of property, or personal injury, or death arising from malpractice or negligence of any such officer or employee.

(July 29, 1970, 84 Stat. 657, Pub. L. 91-358, title III, § 307; Aug. 5, 1997, 111 Stat. 762, Pub. L. 105-33, § 11272(d); Oct. 21, 1998, 112 Stat. 2428, Pub. L. 105-274, § 7(d), (e)(2)(B), (f); Oct. 16, 2006, 120 Stat. 2039, Pub. L. 109-356, § 301(b); Dec. 26, 2007, 121 Stat. 2042, Pub. L. 110-161, § 825(a); Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 3.)

Effect of amendments.

The 2012 amendment by Pub. L. 112-229 added (e).

TITLE 3. DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS.

SUBTITLE I. GENERAL.

SUBTITLE I. GENERAL.

Chapter 1. Advisory Commission on Sentencing.

§ 3-101. District of Columbia Sentencing and Criminal Code Revision Commission.

(a) The District of Columbia Sentencing and Criminal Code Revision Commission ("Commission") is established as an independent agency within the District of Columbia government, consistent with the meaning of the term "independent agency" as provided in § 1-603.01(13).

(b) In addition to the duties required under § 3-101.01, the Commission shall perform the following duties:

(1) Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court of the District of Columbia designed to achieve the goals of certainty, consistency, and adequacy of punishment, with due regard for the:

(A) Seriousness of the offense;

(B) Dangerousness of the offender;

(C) Need to protect the safety of the community;

(D) Offender's potential for rehabilitation; and

(E) Use of alternatives to prison, where appropriate;

(2) Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the court and practitioners on sentencing and sentencing guideline issues;

(3) Review and analyze pertinent sentencing data and, where the information has not been provided in a particular case, ask the judge to specify the

factors upon which he or she relied in departing from the guideline recommendations or for imposing what appears to be a noncompliant sentence;

(4) Conduct focus groups, community outreach, training, and other activities designed to collect and disseminate information about the guidelines;

(5) Review and research sentencing policies and practices locally and nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia; and

(6) Consult with other District of Columbia, federal, and state agencies that are affected by or address sentencing issues.

(c) The Commission is designated as a criminal justice agency for purposes of accessing offender and sentencing related data required to perform the duties specified under this chapter.

(Oct. 16, 1998, D.C. Law 12-167, § 2, 45 DCR 5180; Oct. 3, 2001, D.C. Law 14-28, § 3802(a), 48 DCR 6981; Sept. 30, 2004, D.C. Law 15-190, § 2(a), 51 DCR 6737; June 16, 2006, D.C. Law 16-126, § 2(a), 53 DRC 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(a), 54 DCR 8014; Sept. 20, 2012, D.C. Law 19-168, § 3032(a), 59 DCR 8025.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-168 added (c).

Legislative history of Law 19-168. — Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

§ 3-101.01. Criminal Code reform.

(a) Beginning January 1, 2007, the Commission shall also have as its purpose the preparation of comprehensive recommendations to the Council and the Mayor that:

(1) Revise the language of criminal statutes to be clear and consistent;

(2) In consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia, organize existing criminal statutes in a logical order;

(3) Assess whether criminal penalties (including fines) for felonies are proportionate to the seriousness of the offense, and, as necessary, revise the penalties so they are proportionate;

(4) Propose a rational system for classifying misdemeanor criminal statutes, determine appropriate levels of penalties for such classes; and classify misdemeanor criminal statutes in the appropriate classes;

(5) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;

(6) Identify criminal statutes that have been held to be unconstitutional;

(7) Propose such other amendments as the Commission believes are necessary; and

(8) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.

(b) No later than March 31, 2007, the Commission shall submit to the

Council and the Mayor a work plan and schedule for carrying out the responsibilities authorized by this section. The work of the Commission under this section shall be completed no later than September 30, 2016.

(c) The Commission shall submit its recommendations for criminal code revisions in the form of reports. Each report shall be accompanied by draft legislation or other specific steps for implementing the recommendations for criminal code revisions.

(Oct. 16, 1998, D.C. Law 12-167, § 2a, as added June 16, 2006, D.C. Law 16-126, § 2(b), 53 DCR 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(b), 54 DCR 8014; Dec. 10, 2009, D.C. Law 18-88, § 202, 56 DCR 7413; Sept. 14, 2011, D.C. Law 19-21, § 3032, 58 DCR 6226; Sept. 20, 2012, D.C. Law 19-168, § 3032(b), 59 DCR 8025.)

Section references. — This section is referenced in § 3-101.

Effect of amendments. The 2012 amendment by D.C. Law 19-168 substituted "September 30, 2016" for "September 30, 2014" in the second sentence of (b).

Legislative history of Law 19-168. — See note to § 3-101.

§ 3-102. Membership of the Commission.

(a) The Commission shall consist of 15 voting members and 5 nonvoting members as follows:

(1) The voting members of the Commission shall consist of the following:

(A) Three judges of the Superior Court of the District of Columbia, appointed by the Chief Judge of the Superior Court;

(B) Repealed;

(C) The United States Attorney for the District of Columbia or his or her designee;

(D) The Director of the D.C. Public Defender Service or his or her designee;

(E) The Attorney General for the District of Columbia or his or her designee;

(F) The Director of the Court Services and Offender Supervision Agency for the District of Columbia or his or her designee;

(G) Two members of the District of Columbia Bar, one who specializes in the private practice of criminal defense in the District of Columbia, and one who does not specialize in the practice of criminal law, appointed by the Chief Judge of the Superior Court in consultation with the President of the District of Columbia Bar;

(H) A professional from an established organization devoted to research and analysis of sentencing issues and policies, appointed by the Chief Judge of the Superior Court of the District of Columbia;

(I) Two citizens of the District of Columbia, one of whom is nominated by the Mayor subject to confirmation by the Council, and the other who is appointed by the Council; and

(J) Three professionals from established organizations, to include institutions of higher education, devoted to the research and analysis of criminal justice issues, appointed by the Council.

(2) The non-voting members of the Commission shall consist of the following:

(A) The Director of the District of Columbia Department of Corrections or his or her designee;

(B) The Chief of the Metropolitan Police Department or his or her designee;

(C) The Director of the United States Bureau of Prisons or his or her designee;

(D) The Chairperson of the United States Parole Commission or his or her designee; and

(E) The chairperson of the Council committee that has oversight of the Commission within its purview.

(b) The appointment of members designated by subsection (a)(1)(G), (H), (I), and (J) of this section shall be made in accordance with the following provisions:

(1) Each member shall be appointed for a term of 3 years, and shall continue to serve during that time as long as the member remains eligible for the appointment.

(2) A member may be reappointed.

(3) A person appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

(4) A member may be removed only for incompetence, neglect of duty, or misconduct.

(c) The voting members of the Commission shall elect a Chairperson.

(d) Members of the Commission shall serve without compensation, except that the citizen members of the Commission may be compensated at an amount not to exceed $15.00 each day or part thereof for reasonable expenses incurred in the performance of their official duties.

(Oct. 16, 1998, D.C. Law 12-167, § 3, 45 DCR 5180; June 16, 2006, D.C. Law 16-126, § 2(c), 53 DCR 4709; Oct. 18, 2007, D.C. Law 17-25, § 2(c), 54 DCR 8014; Mar. 19, 2013, D.C. Law 19-225, § 3, 59 DCR 13551.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-225 deleted "who are not attorneys" following "Columbia" in (a)(1)(I).

Legislative history of Law 19-225. — Law 19-225, the "Hire Date Reporting Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-739. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Nov. 15, 2012, it was assigned Act No. 19-536 and transmitted to Congress for its review. D.C. Law 19-225 became effective on Mar. 19, 2013.

Chapter 4. Board of Funeral Directors.

Sec.

§ 3-405. Qualifications, applications, and examinations for licensure.

(a) *Funeral director's license.* — Except as provided in subsections (b) and (c) of this section, an applicant for licensure as a funeral director shall furnish satisfactory proof to the Mayor that he or she:

(1) Is at least 18 years of age;

(2) Is a graduate of a high school or possesses the equivalent education as approved by the Mayor;

(3) Is a graduate of an accredited school or college of mortuary science whose course of instruction is not less than 12 months in duration or is composed of not less than 840 hours of study; or has successfully completed a 2-year course of study leading to an associate degree in mortuary science;

(4) Has had at least 2 years of practical experience as an apprentice funeral director if he or she is a graduate of a school or college of mortuary science, or at least 1 year of practical experience if he or she possesses an associate degree in mortuary science; has actually embalmed at least 25 human remains; and has actually conducted or directed at least 25 funerals. This experience shall be verified by the sworn affidavit of each funeral director under whose immediate supervision the apprentice funeral director's duties were performed, indicating the number of human remains embalmed by the applicant and the number of funerals conducted or directed during the period of apprenticeship served under the supervision of the funeral director;

(5) Is fully acquainted with District and federal laws relating to the practice of funeral directing, in a manner to be determined by the Mayor;

(6) Has paid all required fees;

(7) Has passed a nationally approved examination; and

(8) Has met all additional requirements set by the Mayor.

(b) *Special licensing.* —

(1) Notwithstanding the requirements set forth in subsection (a) of this section, any funeral director licensed by the District as an undertaker on May 22, 1984, shall be qualified for licensure under this chapter upon meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section.

(2) Any apprentice funeral director licensed by the District on May 22, 1984, and actively engaged in discharging the duties of a funeral director from January 1, 1973, through January 1, 1990, shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing the nationally approved oral and practical examination; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(3) Every person who on August 1, 1947, would have qualified for licensure under § 47-2843(c) [section repealed], and who has discharged the duties of a funeral director from January 1, 1973, through January 1, 1983, and continues to discharge those duties shall be qualified for licensure as a funeral director upon:

(A) Meeting the qualifications in paragraphs (1), (5), and (6) of subsection (a) of this section;

(B) Passing any oral and practical examination the Mayor may require to determine that the person is fully acquainted with District and federal laws relating to the practice of funeral directing; and

(C) Furnishing proof to the Mayor that he or she was discharging the duties of a funeral director during the specified period.

(4) Applicants to be licensed by paragraphs (2) and (3) of this subsection must comply with the requirements of this chapter within 2 years following the date on which the Mayor establishes the examinations required by paragraph (5) of this subsection.

(5) The Mayor shall, within 6 months of June 19, 1998, establish the necessary examinations to test individuals for licensure as funeral directors under paragraphs (2) and (3) of this subsection. The Mayor shall conduct these examinations at least twice during the 2-year period following the date these examinations are established.

(c) *Reciprocity.* — An applicant for a license by reciprocity to practice as a funeral director in the District must furnish proof to the Mayor that he or she:

(1) Is currently licensed in good standing as a funeral director in a state or territory of the United States wherein the requirements for licensure are substantially equal to or exceed those in effect in the District, and which state or territory admits funeral directors licensed by the District in a like manner; and

(2) Meets the qualifications specified in paragraphs (1), (2), (5), and (6) of subsection (a) of this section.

(d) *Apprentice funeral director's license.* — An applicant for licensure as an apprentice funeral director must furnish proof satisfactory to the Mayor that he or she:

(1) Is at least 18 years of age;

(2) Is a graduate of a recognized high school or possesses the equivalent education as approved by the Mayor;

(3) Is fully acquainted with District and federal laws relating to the practice of funeral directing and embalming, in a manner to be determined by the Mayor;

(4) Has paid all required fees; and

(5) Has successfully completed or is enrolled in an accredited school or college of mortuary science, or has successfully completed or is enrolled in a 2-year course of study leading to an associate degree in mortuary science as required by paragraph (3) of subsection (a) of this section.

(e) *Funeral services establishment license.* —

(1) No funeral services establishment shall be operated in the District unless licensed as a funeral services establishment in accordance with subchapter I-A of Chapter 28 of Title 47.

(1A) Licenses issued under this subsection shall be issued as Public Health Funeral Establishment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

(2) No individual may be licensed to operate a funeral services establishment unless that individual is also licensed as a funeral director under this chapter.

(3) No corporation, partnership, or other business entity may be licensed to operate a funeral services establishment unless: (A) One of the owners of the funeral services establishment business is licensed as a funeral director under this chapter, and (B) the business entity designates a principal funeral director, licensed under this chapter, who will be responsible for the daily operation of the funeral services establishment. The Mayor shall issue rules and regulations pursuant to § 3-420 to ensure that the corporation, partnership, or other business entity comes into prompt compliance with this paragraph when death or termination of the business relationship removes the owner who is a licensed funeral director or the licensed funeral director responsible for the daily operation of the funeral services establishment.

(4) All funeral services establishments operated in the District shall be built, equipped, arranged, occupied, and maintained in compliance with all applicable District and federal laws.

(5) The Board shall provide the Office of the Chief Medical Examiner and all facilities and agencies, as defined in § 44-501(c), with a list of all funeral services establishments and a list of funeral directors, apprentice funeral directors, and courtesy card holders authorized to receive human remains for care or preparation in accordance with this chapter. The list shall:

(A) Consist only of funeral services establishments licensed and operating in the District of Columbia pursuant to this subsection;

(B) Include the funeral services establishment license number; and

(C) Be updated annually.

(f) *Surviving spouse license.* —

(1) Upon the death of the funeral director licensed to operate the funeral services establishment, the Mayor may issue a funeral services establishment license to the funeral director's surviving spouse or estate when the following conditions have been met:

(A) The surviving spouse or estate must notify the Mayor within 10 days of the death of the funeral director of the intent to continue operating the funeral services establishment, and must apply for a funeral services establishment license within 30 days of the death of the funeral director; and

(B) The surviving spouse or estate must identify a funeral director licensed by the District who will be responsible for the day-to-day operation of the funeral services establishment as required by this chapter.

(2) A surviving spouse shall qualify for a license pursuant to this subsection only as long as he or she remains unmarried, except that any surviving spouse presently operating a funeral services establishment on May 22, 1984, is grandfathered.

(3) An estate shall qualify for a license pursuant to this subsection for a period not to exceed 3 years from the date of the funeral director's death.

(g) *Application procedures for licenses.* —

(1) Each applicant for a license shall file with the Mayor a complete and true application on a form approved by the Mayor.

(2) Each application for a funeral director's and apprentice funeral director's license shall be accompanied by a recent photograph of the applicant's face, measuring approximately 1″ x 1½″.

(3) Each application for a license pursuant to paragraph (1) of this subsection shall be sworn to before a notary public.

(4) The Mayor shall review and take action on all applications within a reasonable time after filing. An applicant for any license has the burden of proving compliance with the qualifications and requirements for obtaining the license desired. The Mayor may not presume qualifications and requirements not shown on the application. The Mayor may refuse to act on the application and may require the applicant to submit additional information if the application contains incomplete or evasive information.

(5) The Mayor may deny, after notice and opportunity for hearing, any application if: (A) The applicant has knowingly made or allowed to be made on his behalf any false or misleading statements in connection with his or her application, or (B) the applicant or an agent of the applicant has attempted to improperly influence any member of the Board or officer or employee of the District in the discharge of duties relating to the application.

(6) Each applicant for a funeral director's license for which an examination is required shall make application to take the examination not later than 60 calendar days prior to the date of the examination.

(7) Procedures governing applications for a funeral director's license, an apprentice funeral director's license, a surviving spouse license, and a license to operate a funeral services establishment shall be prescribed in rules and regulations issued by the Mayor pursuant to § 3-420.

(h) *Examination.* —

(1) The Mayor shall conduct each year in the District at least 1 nationally approve[d] examination for licensure as a funeral director. The Mayor may schedule additional examinations he or she determines to be necessary. The Mayor shall fix the time and place for each examination.

(2) Except as provided in § 3-420, the funeral director's license examination shall consist of the following 3 parts: (A) Written examination, (B) oral examination, and (C) practical demonstration.

(3) The Mayor may waive the written portion of the examination if an applicant for a funeral director's license has previously passed the written portion of the nationally approved examination as defined by § 3-402(16).

(4)(A) The written portion of the funeral director's license examination shall consist of questions relating to embalming, anatomy, pathology, bacteriology, chemistry, restorative art, and mortuary administration.

(B) The practical demonstration portion of the funeral director's license examination shall consist of a demonstration by the applicant, in the presence of 2 or more members of the Board, of his or her knowledge and skill in the care, preparation, and preservation of human remains.

(C) The oral portion of the funeral director's license examination shall consist of questions on District and federal laws and regulations governing the practice of funeral directing, including, but not limited to, the following subjects:

(i) The Anatomical Board, human tissue banks, and anatomical gifts;
(ii) Vital statistics and containers for cremated human remains;
(iii) Trafficking in dead bodies;
(iv) Cemeteries and crematories;
(v) Licensing of funeral directors; and
(vi) Penalty provisions.

(5) The oral portion of the funeral director's license examination shall be administered to an applicant in the presence of 2 or more members of the Board, at least 2 of whom shall be licensed funeral directors.

(6) The written portion of the examination for a funeral director's license shall be administered to applicants in the presence of 1 or more members of the Board, or an employee of the District government designated by the Mayor.

(7) The examination shall be administered to applicants for a funeral director's license in accordance with examination procedures established by the Mayor. Each applicant shall be fully advised of the examination procedures prior to the examination and a copy of the procedures shall be included in the notice of authorization to take the examination.

(8) The Mayor shall monitor the implementation of the nationally approved examination for a funeral director's license to ensure that there are no anticompetitive or discriminatory effects. If the Mayor reasonably determines by rulemaking that the examination is producing anticompetitive or discriminatory effects, the Mayor shall develop a local examination and, after proper notice and publication, shall substitute it for the nationally approved examination.

(i)(1) The Board may issue a license to practice as a funeral director in the District to an applicant who is licensed by another state by waiver of the examination and apprenticeship requirements of subsection (a) of this section.

(2) An applicant for a license to practice as a funeral director in the District shall furnish proof to the Board that he or she:

(A) Is currently licensed in good standing as a funeral director in a state or territory of the United States with requirements for licensure that are substantially similar to those in effect in the District;

(B) Has practiced continuously in the state or territory of licensure as a funeral director for at least 5 years preceding his or her application; and

(C) Meets the qualifications specified in subsection (a)(1), (2), (5), and (6) of this section.

(May 22, 1984, D.C. Law 5-84, § 6, 31 DCR 1815; Sept. 15, 1992, D.C. Law 9-150, § 2-3, 39 DCR 5019; Mar. 17, 1993, D.C. Law 9-207, § 2, 40 DCR 14; Apr. 20, 1999, D.C. Law 12-261, § 1239, 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-263, § 13(a), 46 DCR 2111; Oct. 28, 2003, D.C. Law 15-38, § 3(c), 50 DCR 6913; Mar. 25, 2009, D.C. Law 17-353, § 186(a), 56 DCR 1117; Sept. 24, 2010, D.C. Law 18-223, § 2082(c), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 28, 59 DCR 6190.)

Section references. — This section is referenced in § 7-1541.06.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 deleted "Except as provided by § 3-420" at the beginning of (h)(4)(B).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of

2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

Chapter 7. Commission for Women.

Sec.
3-702. Establishment of the Commission.

§ 3-702. Establishment of the Commission.

(a) There is hereby established in the District of Columbia a Commission for Women (hereinafter referred to as the "Commission"). The Commission shall be composed of 21 members appointed by the Mayor, from among the residents of the District of Columbia with experience in the areas of public affairs and issues of particular interest and concern to women, representative by geographic area and reflective by race and age of the population of the District of Columbia. The Commission shall be the successor to the Commission on the Status of Women established by Organization Order No. 38, Commissioner's Order No. 73-94a, effective April 24, 1973 (hereinafter referred to as the "Commission on the Status of Women").

(b) Members of the Commission shall be appointed to serve terms of 3 years and shall serve until their successors are appointed. The present members of the Commission on the Status of Women shall be members of the Commission established by this chapter for the remainder of their current terms. A member of the Commission may be reappointed but may serve no more than 2 consecutive full terms. Tenure on the Commission on the Status of Women shall count toward the consecutive 2 full term limit on the Commission.

(c) Whenever a vacancy occurs on the Commission, the Mayor shall, within 90 working days of such vacancy, appoint a successor to fill the unexpired portion of the term.

(d) The Mayor shall designate, from among the members appointed to the Commission, the Chairperson, who shall serve in that capacity at the pleasure of the Mayor.

(e) All members of the Commission shall serve without compensation; except, that expenses incurred by the Commission as a whole or by its individual members, when duly authorized, shall become an obligation against appropriated District of Columbia funds designated for that purpose.

(f) The Mayor may remove, after notice and hearing, any member of the Commission for neglect of duty, incompetence, misconduct or malfeasance in office.

(Sept. 22, 1978, D.C. Law 2-109, § 3, 25 DCR 1456; June 12, 1999, D.C. Law 12-285, § 4(k), 46 DCR 1355; Mar. 25, 2009, D.C. Law 17-353, § 313, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 29, 59 DCR 6190.)

Effect of amendments.
The 2012 amendment by D.C. Law 19-171 validated a previously made punctuation correction in (c).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

CHAPTER 8. COUNCIL ON LAW ENFORCEMENT.

§ 3-801. Created; composition; duties; Chairman; meetings.

Emergency legislation. — For temporary repeal of section, see § 514 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

CHAPTER 9. CRIMINAL JUSTICE SUPERVISORY BOARD.

§ 3-901. Definitions.

Emergency legislation. — For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-902. Findings; purpose.

Emergency legislation. — For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-903. Criminal Justice Supervisory Board and Office of Criminal Justice Plans and Analysis; membership; staff.

Section references. — This section is referenced in § 3-901.

Emergency legislation.
For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-904. Meetings; quorums; committees; bylaws.

Emergency legislation. — For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-905. Powers and duties.

Emergency legislation. — For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-906. Reports.

Emergency legislation.
For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-907. Authorization of funds.

Emergency legislation.
For temporary repeal of section, see § 515 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

CHAPTER 12. HEALTH OCCUPATIONS BOARDS.

Subchapter I. Definitions; Scope.

§ 3-1201.02. Definitions of health occupations.

For the purposes of this chapter, the term:

(1) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal stimulation, at a certain point or points on or near the surface of the human body to relieve pain, normalize physiological functions, and treat ailments or conditions of the body. A licensed acupuncturist does not need to enter into a collaboration agreement with a licensed physician or osteopath to practice acupuncture.

(1A) "Practice of addiction counseling" means providing services, with or without compensation, based on theory and methods of counseling, psychotherapy, and addictionology to persons who are experiencing cognitive, affective, or behavioral psycho-social dysfunction as a direct or indirect result of addiction, chemical dependency, abuse of chemical substances, or related disorders. The practice of addiction counseling includes:

(A) Addiction prevention;
(B) Crisis intervention;
(C) Diagnosis;
(D) Referral;
(E) Direct treatment;
(F) Follow-up, which is rendered to individuals, families, groups, organizations, schools, and communities adversely affected by addictions or related disorders; and
(G) The education and training of persons in the field of addiction counseling.

(2) "Practice of advanced practice registered nursing" means the performance of advanced-level nursing actions, with or without compensation, by a licensed registered nurse with advanced education, knowledge, skills, and scope of practice who has been certified to perform such actions by a national certifying body acceptable to the Board of Nursing. The practice of advanced practice registered nursing includes:
(A) Advanced assessment;
(B) Medical diagnosis;
(C) Prescribing;
(D) Selecting, administering, and dispensing therapeutic measures;
(E) Treating alterations of the health status; and
(F) Carrying out other functions identified in subchapter VI of this chapter and in accordance with procedures required by this chapter.

(2A)(A) "Practice by anesthesiologist assistants" means assisting an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist.

(B) For the purposes of this paragraph, the term "anesthesiologist" means a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

(2B)(A) "Practice of audiology" means the planning, directing, supervising, and conducting of habilitative or rehabilitative counseling programs for individuals or groups of individuals who have, or are suspected of having, disorders of hearing; any service in audiology, including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction, and research; participating in hearing conservation, hearing aid and assistive listening device evaluation, selection, preparation, dispensing, and orientation; fabricating ear molds; providing auditory training and speech reading; or administering tests of vestibular function and tests for tinnitus. The practice of audiology includes speech and language screening limited to a pass-or-fail determination for the purpose of identification of individuals with disorders of communication. The practice of audiology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a school audiologist employed

by, and working in accordance with, the regulations of the District of Columbia Board of Education.

(3)(A) "Practice of Chiropractic" means the detecting and correcting of subluxations that cause vertebral, neuromuscular, or skeletal disorder, by adjustment of the spine or manipulation of bodily articulations for the restoration and maintenance of health; the use of x-rays, physical examination, and examination by noninvasive instrumentation for the detection of subluxations; and the referral of a patient for diagnostic x-rays, tests, and clinical laboratory procedures in order to determine a regimen of chiropractic care or to form a basis or referral of patients to other licensed health care professionals. "Practice of Chiropractic" does not include the use of drugs, surgery, or injections, but may include, upon certification by the Board, counseling about hygienic and other noninvasive ancillary procedures authorized by rules issued pursuant to this chapter.

(B) Nothing in this paragraph shall be construed as preventing or restricting the services or activities of any individual engaged in the lawful practice of cosmetology or massage, provided that the individual does not represent by title or description of services that he or she is a chiropractor.

(4)(A) "Practice of dental hygiene" means the performance of any of the following activities in accordance with the provisions of subparagraph (B) of this paragraph:

(i) A preliminary dental examination; a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration; or the polishing of a tooth or a restoration;

(ii) The charting of cavities during preliminary examination, prophylaxis, or polishing;

(iii) The application of a medicinal agent to a tooth for a prophylactic purpose;

(iv) The taking of a dental X-ray;

(v) The instruction of individuals or groups of individuals in oral health care; and

(vi) Any other functions included in the curricula of approved educational programs in dental hygiene.

(B) A dental hygienist may perform the activities listed in subparagraph (A) of this paragraph only under the general supervision of a licensed dentist, in his or her office or any public school or institution rendering dental services. The Mayor may issue rules identifying specific functions authorized by subparagraph (A)(vi) of this paragraph and may require higher levels of supervision for the performance of these functions by a dental hygienist. The license of a dentist who permits a dental hygienist, operating under his or her supervision, to perform any operation other than that permitted under this paragraph, may be suspended or revoked, and the license of a dental hygienist violating this paragraph may also be suspended or revoked, in accordance with the provisions of this chapter.

(C) For the purpose of subparagraph (B) of this paragraph, the term "general supervision" means the performance by a dental hygienist of procedures permitted by subparagraph (A) of this paragraph based on instructions

given by a licensed dentist, but not requiring the physical presence of the dentist during the performance of these procedures.

(5) "Practice of dentistry" means:

(A) The diagnosis, treatment, operation, or prescription for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity, including the removal of stains, accretions, or deposits from the human teeth;

(B) The extraction of a human tooth or teeth;

(C) The performance of any phase of any operation relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with an artificial substance, material, or device;

(D) The correction of the malposition or malformation of the human teeth;

(E) The administration of an appropriate anesthetic agent, by a dentist properly trained in the administration of the anesthetic agent, in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity;

(F) The taking or making of an impression of the human teeth, gums, or jaws;

(G) The making, building, construction, furnishing, processing, reproduction, repair, adjustment, supply or placement in the human mouth of any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition of malformation of a tooth or teeth, or to advertise, offer, sell, or deliver any such substitute or the services rendered in the construction, reproduction, repair, adjustment, or supply thereof to any person other than a licensed dentist;

(H) The use of an X-ray machine or device for dental treatment or diagnostic purposes, or the giving of interpretations or readings of dental X-rays;

(I) The performance of any of the clinical practices included in the curricula of accredited dental schools or colleges or qualifying residency or graduate programs; or

(J) To be a manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed; provided, that this provision shall not apply to:

(i) Federal or District of Columbia government agencies providing dental services within affiliated facilities or engaged in providing public health measures to prevent disease;

(ii) Schools of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association and providing dental services solely in an educational setting;

(iii) Federally Qualified Health Centers, as designated by the United States Department of Health and Human Services, providing dental services;

(iv) Nonprofit community-based entities or organizations that use a majority of public funds to provide dental and dental-hygiene services for indigent persons;

(v) Hospitals licensed by the Department of Health;

(vi) Partnerships, professional corporations, or professional limited liability companies solely consisting of and operated by dentists licensed under this chapter for the purpose of providing dental services;

(vii) Spouses and domestic partners of deceased licensed dentists for a period of one year following the death of the licensee;

(viii) If all of the ownership interest of the deceased, licensed dentist in a dental office or clinic is held by an administrator, executor, personal representative, guardian, conservator, or receiver of the estate ("appointee"), the appointee may retain the ownership interest for a period of one year following the creation of the ownership interest; and

(ix) An individual or entity acting as the manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed who does not have a license to practice dentistry and is not excepted pursuant to sub-subparagraphs (i) through (viii) of this subparagraph may continue to act as the manager, proprietor, operator, or conductor of the business or place where dental or dental-hygiene services are performed for a period of one year following July 7, 2009.

(6)(A) "Practice of dietetics and nutrition" means the application of scientific principles and food management techniques to assess the dietary or nutritional needs of individuals and groups, make recommendations for short-term and long-term dietary or nutritional practices which foster good health, provide diet or nutrition counseling, and develop and manage nutritionally sound dietary plans and nutrition care systems consistent with the available resources of the patient or client.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of dietetic technicians and dietetic assistants working under the supervision of a licensed dietitian or nutritionist, other health professionals licensed pursuant to this chapter, or other persons who in the course of their responsibilities offer dietary or nutrition information or deal with nutritional policies or practices on an occasional basis incidental to their primary duties, provided that they do not represent by title or description of services that they are dietitians or nutritionists.

(6A)(A) "Practice of marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. The practice of marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families, singly or in groups, whether the services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, for the purpose of treating the diagnosed nervous and mental disorders.

(B) Nothing in subparagraph (A) of this paragraph shall be construed as preventing or restricting the practices, services, or activities of:

(i) A person practicing marriage and family therapy within the scope of the person's employment or duties at:

(I) A recognized academic institution, or a federal, state, county, or local governmental institution or agency; or

(II) A nonprofit organization that is determined by the Board to meet community needs;

(ii) A person who is a marriage and family therapy intern or person preparing for the practice of marriage and family therapy under qualified supervision in a training institution or facility or under another supervisory arrangement recognized and approved by the Board; provided, that the person is designated by a title clearly indicating the training status, such as "marriage and family therapy intern," "marriage therapy intern," or "family therapy intern"; or

(iii) A person who has been issued a temporary permit by the Board to engage in the activities for which licensure is required.

(C) Nothing in this chapter shall be construed as preventing or restricting members of the clergy, or other health professionals licensed under this chapter, including clinical social workers, psychiatric nurses, psychiatrists, psychologists, physicians, or professional counselors, from practicing marriage and family therapy consistent with the accepted standards of their professions; provided, that no such persons shall represent by title or description of services that they are marriage and family therapists.

(6B)(A) "Practice of massage therapy" means the:

(i) Performance of therapeutic maneuvers in which the practitioner applies massage techniques, including use of the hand or limb to apply touch and pressure to the human body through tapping, stroking, kneading, compression, friction, stretching, vibrating, holding, positioning, or causing movement of an individual's body to positively affect the health and well-being of the individual;

(ii) Use of adjunctive therapies, including the application of heat, cold, water, and mild abrasives, but excluding galvanic stimulation, ultra sound, doppler vascularizers, diathermy, transcutaneous electrical nerve stimulation, or traction; and

(iii) Education and training of persons in massage therapy techniques.

(B) A licensed massage therapist shall not diagnose disease or injury; prescribe medicines, drugs, or other treatments of disease; or perform adjustments of the articulations of the osseous structure of the body or spine.

(C) A licensed massage therapist may perform cross-gender massage.

(D) Repealed.

(7)(A) "Practice of medicine" means suggesting, recommending, prescribing, or administering, with or without compensation, any form of treatment, operation, drug, medicine, manipulation, electricity, or any physical, mechanical, or healing treatment by other means, for the prevention, diagnosis, correction, or treatment of a physical or mental disease, ailment, injury, condition, or defect of any person, including:

(i) The management of pregnancy and parturition;

(ii) The interpretation of tests, including primary diagnosis of pathology specimens, images, or photographs;

(iii) Offering or performing a surgical operation upon another person;

(iv) Offering or performing any type of invasive procedure of the body, whether through a body opening or a cutting of the skin, or otherwise affecting the layer of skin below the stratum corneum, for surgical, therapeutic, or cosmetic purposes, excluding procedures known as body tattooing or body piercing;

(v) Rendering a written or otherwise documented medical opinion relating to the diagnosis and treatment of a person within the District, or the actual rendering of treatment to a person within the District, by a physician located outside the District as a result of transmission of the person's medical data by electronic or other means from within the District to the physician or to the physician's agent;

(vi) Maintaining an office or other place for the purpose of examining persons afflicted with disease, injury, or defect of body or mind;

(vii) Advertising or representing in any manner that one is authorized to practice medicine; or

(viii) Using the designation "Doctor of Medicine," "Doctor of Osteopathy," "physician," "surgeon," "physician and surgeon," "M.D.," or "D.O.," or a similar designation, or any combination thereof, in the conduct of an occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license.

(B) Nothing in this paragraph shall be construed as preventing or restricting other health professionals from offering or undertaking any type of invasive procedure of the body, whether through a body opening or a cutting of the skin, or otherwise affecting the layer of skin below the stratum corneum, for surgical, therapeutic, or cosmetic purposes, if the procedure:

(i) Has been authorized by a licensed physician; or

(ii) Is performed by an advanced practice registered nurse, an anesthesiologist assistant, a dentist, a physician assistant, a podiatrist, a practical nurse, a registered nurse, or a surgical assistant who has received the necessary training and experience to perform the procedure in a safe and effective manner.

(C) Nothing in this paragraph shall be construed as preventing or restricting advanced practice registered nurses from performing their duties as advanced practice registered nurses.

(7A)(A) "Practice of naturopathic medicine" means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient's intrinsic self-healing processes to prevent, diagnose, and treat human conditions and injuries.

(B) The term "practice of naturopathic medicine" does not include the practices of physical therapy, physical rehabilitation, acupuncture, or chiropractic.

(7B) "Practice by nursing assistive personnel" means the performance by unlicensed personnel of assigned patient care tasks that do not require professional skill or judgment within a health care, residential, or community

support setting; provided, that the patient care tasks are performed under the general supervision of a licensed health care professional. Nursing assistive personnel includes:

(A) Nursing assistants;

(B) Health aides;

(C) Home-health aides;

(D) Nurse aides;

(E) Trained medication employees;

(F) Dialysis technicians; and

(G) Any other profession as determined by the Mayor through rulemaking.

(8)(A) "Practice of nursing home administration" means the administration, management, direction, or the general administrative responsibility for an institution or part of an institution that is licensed as a nursing home.

(B) Within the meaning of this paragraph, the term "nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient or resident.

(9)(A) "Practice of occupational therapy" means:

(i) The therapeutic use of everyday life activities with individuals or groups, with or without compensation, for the purpose of participation in roles and situations in homes, schools, workplaces, communities, and other settings to promote health and welfare for those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction;

(ii) Addressing the physical, cognitive, psycho-social, sensory, or other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life;

(iii) The education and training of persons in the direct care of patients through the use of occupational therapy; and

(iv) The education and training of persons in the field of occupational therapy.

(B) An individual licensed as an occupational therapy assistant pursuant to this chapter may assist in the practice of occupational therapy under the general supervision of a licensed occupational therapist.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of an occupational therapy aide who works under the immediate supervision of a licensed occupational therapist or licensed occupational therapy assistant, and whose activities do not require advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(10)(A) "Practice of optometry" means the application of the scientific principles of optometry in the examination of the human eye, its adnexa, appendages, or visual system, with or without the use of diagnostic pharmaceutical agents to prevent, diagnose, or treat defects or abnormal conditions; the prescription or use of lenses, prisms, orthoptics, vision training or therapy, low vision rehabilitation, therapeutic pharmaceutical agents, or prosthetic

devices; or the application of any method, other than invasive surgery, necessary to prevent, diagnose, or treat any defects or abnormal conditions of the human eye, its adnexa, appendages, or visual system.

(B) The Mayor shall issue rules identifying which, and under what circumstances, diagnostic and therapeutic pharmaceutical agents may be used by optometrists pursuant to this paragraph.

(C) An individual licensed to practice optometry pursuant to this chapter may use diagnostic and therapeutic agents only if certified to do so by the Board of Optometry in accordance with the provisions of § 3-1202.07.

(D) Nothing in this paragraph shall be construed to authorize an individual licensed to practice optometry to use surgical lasers; to perform any surgery including cataract surgery or cryosurgery; or to perform radial keratotomy. For the purpose of this subparagraph, the term "surgery" shall not include punctal plugs, superficial foreign body removal, epilation, or dialation and irrigation.

(E) Nothing in this paragraph shall be construed to authorize an individual licensed to practice optometry to administer or prescribe any oral systemic drug except for antibiotics, appropriate analgesics, antihistamines, non-steroidal anti-inflammatories, or medication for the emergency treatment of angle closure glaucoma; to administer or prescribe any injectable systemic drug except for an injection to counter an anaphylactic reaction; or to administer or prescribe any drug for any purpose other than that authorized by this paragraph. For the purposes of this subparagraph, the term "antibiotics" shall not include antiviral or antifungal agents.

(F) Prior to initiating treatment for glaucoma, an optometrist shall consult with the patient's physician or other appropriate physician. The treatment of angle closure glaucoma by an optometrist shall be limited to the initiation of immediate emergency treatment.

(G) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a licensed physician or as prohibiting an optician from providing eyeglasses or lenses on the prescription of a licensed physician or optometrist or a dealer from selling eyeglasses or lenses; provided, that the optician or dealer does not represent by title or description of services that he or she is an optometrist.

(10A)(A) "Practice of pharmaceutical detailing" means the practice by a representative of a pharmaceutical manufacturer or labeler of communicating in person with a licensed health professional, or an employee or representative of a licensed health professional, located in the District of Columbia, for the purposes of selling, providing information about, or in any way promoting a pharmaceutical product.

(B) For the purposes of this paragraph, the term:

(i) "Labeler" means an entity or person that receives pharmaceutical products from a manufacturer or wholesaler and repackages them for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 207.20.

(ii) "Manufacturer" means a maker of pharmaceutical products and includes a subsidiary or affiliate of a manufacturer.

(iii) "Pharmaceutical product" means a drug or biologic for human use regulated by the federal Food and Drug Administration.

(11)(A) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices; drug and device selection; responsibility for advising and providing information, where regulated or otherwise necessary, concerning drugs and devices and their therapeutic values, content, hazards, and uses in the treatment and prevention of disease; responsibility for conducting drug-regimen reviews; responsibility for the proper and safe storage and distribution of drugs and devices; the administration of immunizations and vaccinations upon receipt of a written physician protocol and a valid prescription or standing order of a physician when certified by the Board of Pharmacy to do so; conducting health screenings, including obtaining finger-stick blood samples; the offering or performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy; the initiating, modifying, or discontinuing a drug therapy in accordance with a duly executed collaborative practice agreement; and the maintenance of proper records.

(B) Within the meaning of this paragraph, the term:

(i) "Collaborative practice agreement" means a voluntary written agreement between a licensed pharmacist and a licensed physician that has been approved by the Board of Pharmacy and the Board of Medicine, or between a licensed pharmacist and another health practitioner with independent prescriptive authority licensed by a District health occupation board, that defines the scope of practice between the licensed pharmacist and licensed physician, or other health practitioner, for the initiation, modification, or discontinuation of a drug therapy regimen.

(ii) "Pharmacy" means any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed.

(iii) "Prescription" means any order for a drug, medicinal chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, or on an approved electronic form, dated and signed by an authorized health professional, or given orally to a pharmacist by an authorized health professional or the person's authorized agent and immediately reduced to writing by the pharmacist or pharmacy intern, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

(12)(A) "Practice of physical therapy" means the independent evaluation of human disability, injury, or disease by means of noninvasive tests of neuromuscular functions and other standard procedures of physical therapy, and the treatment of human disability, injury, or disease by therapeutic procedures, embracing the specific scientific application of physical measures to secure the functional rehabilitation of the human body. These measures include the use of therapeutic exercise, therapeutic massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any

physical or mental disability, or preventing the development of any physical or mental disability, or the performance of noninvasive tests of neuromuscular functions as an aid to the detection or treatment of any human condition.

(B) "Practice by physical therapy assistants" means the performance of selected physical therapy procedures and related tasks under the direct supervision of a physical therapist by a person who has graduated from a physical therapy assistant program accredited by an agency recognized for that purpose by the Secretary of the Department of Education or the Council of Postsecondary Accreditation.

(C) Nothing in this paragraph shall be construed as preventing or restricting the practices, services, or activities of a physical therapy aide who works only under the direct supervision of a physical therapist, and whose activities do not require advanced training in, or complex application of, therapeutic procedures or other standard procedures involved in the practice of physical therapy.

(13) "Practice by physician assistants" means the performance, in collaboration with a licensed physician or osteopath, of acts of medical diagnosis and treatment, prescription, preventive health care, and other functions which are authorized by the Board of Medicine pursuant to § 3-1202.03.

(13A) "Practice by physicians-in-training" means the practice of medicine by a medical resident or fellow, or other similar designation, enrolled in a nationally accredited training program or a training program in the District that is approved by the District of Columbia Board of Medicine.

(14) "Practice of podiatry" means to diagnose or surgically, medically, or mechanically treat, with or without compensation, the human foot or ankle, the anatomical structures that attach to the human foot, or the soft tissue below the mid-calf. The term "practice of podiatry" does not include the administration of an anesthetic, other than a local anesthetic.

(14A)(A) "Practice of polysomnography" means the process of analyzing, monitoring, and recording physiologic data during sleep and wakefulness, with or without compensation, to assist in the assessment and diagnosis of sleep-wake disorders and other disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or that disrupt normal sleep-wake cycles and activities.

(B) For the purposes of this paragraph, the term:

(i) "Polysomnographic technician" means a person who is registered with the Board of Medicine and is authorized to perform certain polysomnography procedures as determined by the Board while generally supervised by either a physician who is licensed in the District of Columbia or a polysomnographic technologist who is licensed by the District of Columbia who is on-site or available through voice communication.

(ii) "Polysomnographic technologist" means a person who is licensed with the Board of Medicine and is authorized to practice polysomnography; provided, that a polysomnographic technologist shall practice under the general supervision of a physician who is licensed in the District of Columbia.

(iii) "Polysomnographic trainee" means a person who is registered with the Board of Medicine and authorized to perform basic polysomnography

procedures, as determined by the Board, while directly supervised by a physician who is licensed in the District of Columbia, a polysomnographic technologist who is licensed in the District of Columbia, or a polysomnographic technician who is registered in the District of Columbia and on the premises and immediately available for consultation.

(C) Nothing in this paragraph shall be construed as limiting a qualified licensed respiratory care practitioner or licensed physician in his or her scope of practice, including care in connection with the provision of polysomnography services.

(15) "Practice of practical nursing" means the performance of specific nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care based on standards established or recognized by the Board of Nursing; provided, that performance of the services is under the supervision of a registered nurse, advanced practice registered nurse, licensed physician, or other health care provider, as authorized by the Board of Nursing. The practice of practical nursing includes:

(A) Collecting data on the health status of patients;

(B) Evaluating a patient's status and situation at hand;

(C) Participating in the performance of ongoing comprehensive nursing assessment process;

(D) Supporting ongoing data collection;

(E) Planning nursing care episodes for patients with stable conditions;

(F) Participating in the development and modification of the comprehensive plan of care for all types of patients;

(G) Implementing appropriate aspects of the strategy of care within a patient-centered health care plan;

(H) Participating in nursing care management through delegating to assistive personnel and assigning to other licensed practical nurses nursing interventions that may be performed by others and do not conflict with this chapter;

(I) Maintaining safe and effective nursing care rendered directly or indirectly;

(J) Promoting a safe and therapeutic environment;

(K) Participating in health teaching and counseling to promote, attain, and maintain optimum health levels of patients;

(L) Serving as an advocate for patients by communicating and collaborating with other health care service personnel; and

(M) Participating in the evaluation of patient responses to interventions.

(15A) "Practice of professional counseling" means engaging in counseling or psychotherapy activities, including cognitive behavioral therapy or other modality, with or without compensation, to facilitate human development and to identify and remediate mental, emotional, or behavioral conditions and associated difficulties that interfere with mental health and wellness. The practice of professional counseling includes:

(A) The processes of conducting interviews, tests, and other forms of assessment for the purpose of diagnosing individuals, families, and groups, as

outlined in the Diagnostic and Statistical Manual of Disorders or other appropriate classification schemes, and determining treatment goals and objectives; and

(B) Assisting individuals, families, and groups through a professional relationship to achieve long-term effective mental, emotional, physical, spiritual, social, educational, or career development and adjustment.

(16)(A)(i) "Practice of psychology" means the development and application, with or without compensation, of scientific concepts, theories, methods, techniques, procedures, and principles of psychology to aid in the understanding, measuring, explaining, predicting, preventing, fostering, and treating of abilities, disabilities, attributes, or behaviors that are:

(I) Principally cognitive, such as aptitudes, perceptions, attitudes, or intelligence;

(II) Affective, such as happiness, anger, or depression; or

(III) Behavioral, such as physical abuse.

(ii) The term "practice of psychology" includes:

(I) Coaching, consulting, counseling, and various types of therapy, such as behavior therapy, group therapy, hypnotherapy, psychotherapy, and marriage, couples, and family therapy;

(II) Intellectual, personality, behavioral, educational, neuropsychological, and psycho-physiological testing; and

(III) Professional activities, such as research, teaching, training, interviewing, assessment, evaluation, pharmacology, and biofeedback.

(B) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of:

(i) An individual bearing the title of psychologist in the employ of an academic institution, research organization, or laboratory, if the psychology-based activities or services offered are within the scope of employment, are consistent with his or her professional training and experience, and provided within the confines of employment; [or]

(ii) A school psychologist employed by and working in accordance with the regulations of the District of Columbia Board of Education.

(17) "Practice of registered nursing" means the performance of the full scope of nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care to all patients in all settings based on standards established or recognized by the Board of Nursing. The practice of registered nursing includes:

(A) Providing comprehensive nursing assessment of the health status of patients, individuals, families, and groups;

(B) Addressing anticipated changes in a patient's condition as well as emerging changes in a patient's health status;

(C) Recognizing alterations of previous physiologic patient conditions;

(D) Synthesizing biological, psychological, spiritual, and social nursing diagnoses;

(E) Planning nursing interventions and evaluating the need for different interventions and the need for communication and consultation with other health care team members;

(F) Collaborating with health care team members to develop an integrated client-centered health care plan as well as providing direct and indirect nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient's requirements;

(G) Developing a strategy of nursing care for integration within the patient-centered health plan that establishes nursing diagnoses, sets goals to meet identified health care needs, determines nursing interventions, and implements nursing care through the execution of independent nursing strategies and regimens requested, ordered, or prescribed by authorized health care providers;

(H) Performing services such as:

(i) Counseling;

(ii) Educating for safety, comfort, and personal hygiene;

(iii) Preventing disease and injury; and

(iv) Promoting the health of individuals, families, and communities;

(I) Delegating and assigning interventions to implement a plan of care;

(J) Administering nursing services within a health care facility, including the delegation and supervision of direct nursing functions and the evaluation of the performance of these functions;

(K) Delegating and assigning nursing interventions in the implementation of a plan of care along with evaluation of the delegated interventions;

(L) Providing for the maintenance of safe and effective nursing care rendered directly or indirectly as well as educating and training persons in the direct nursing care of patients;

(M) Engaging in nursing research to improve methods of practice;

(N) Managing, supervising, and evaluating the practice of nursing;

(O) Teaching the theory and practice of nursing; and

(P) Participating in the development of policies, procedures, and systems to support the patient.

(17A) "Practice of respiratory care" means the performance in collaboration with a licensed physician, of actions responsible for the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, including, but not limited to:

(A) Therapeutic and diagnostic use of medical gases, humidity, and aerosols, including the maintenance of associated apparatus;

(B) Administration of medications to the cardiorespiratory system; provision of ventilatory assistance, ventilatory control, including high frequency ventilation; postural drainage, chest physiotherapy, breathing exercises, and other respiratory rehabilitation procedures;

(C) Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways and the transcription and implementation of a physician's written or verbal orders pertaining to the practice of respiratory care;

(D) Testing techniques utilized in respiratory care to assist in diagnosis, monitoring, treatment, and research; and

(E) Measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing pH

and blood gas analysis, hemodynamic and other related physiological monitoring of the cardiopulmonary system.

(18)(A) "Practice of social work" means rendering or offering to render professional services to individuals, families, or groups of individuals that involve the diagnosis and treatment of psychosocial problems according to social work theory and methods. Depending upon the level at which an individual social worker is licensed under this chapter, the professional services may include, but shall not be limited to, the formulation of psychosocial evaluation and assessment, counseling, psychotherapy, referral, advocacy, mediation, consultation, research, administration, education, and community organization.

(B) Nothing in this paragraph shall be construed to authorize any person licensed as a social worker under this chapter to engage in the practice of medicine.

(19)(A) "Practice of speech-language pathology" means the application of principles, methods, or procedures related to the development and disorders of human communication, including any condition, whether of organic or non-organic origin, that impedes the normal process of human communication including disorders and related disorders of speech, articulation, fluency, voice, oral, or written language; auditory comprehension and processing; oral, pharyngeal or laryngeal sensorimotor competencies; swallowing; auditory or visual processing; auditory or visual memory or cognition; communication; and assisted augmentative communication treatment and devices.

(B) The term practice of speech-language pathology also includes the planning, directing, supervising, and conducting of a habilitative and rehabilitative counseling program for individuals or groups of individuals who have, or are suspected of having, disorders of communication, and any service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation or rehabilitation, instruction, or research.

(C) The practice of speech-language pathology may include pure-tone air conduction hearing screening, screening tympanometry, and acoustic reflex screening, limited to a pass-or-fail determination for the identification of individuals with other disorders of communication and may also include aural habilitation or rehabilitation, which means the provision of services and procedures for facilitating adequate auditory, speech, and language skills in individuals with hearing impairment. The practice of speech-language pathology does not include the practice of medicine or osteopathic medicine, or the performance of a task in the normal practice of medicine or osteopathic medicine by a person to whom the task is delegated by a licensed physician.

(D) Nothing in this paragraph shall be construed as preventing or restricting the practice, services, or activities of a school speech-language pathologist working in accordance with the regulations of the District of Columbia Board of Education.

(20) "Practice by surgical assistants" means the provision of aid by a person who is not a physician licensed to practice medicine, under the direct supervision of a surgeon licensed in the District of Columbia, in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.

(Mar. 25, 1986, D.C. Law 6-99, § 102, 33 DCR 729; July 22, 1992, D.C. Law 9-126, § 2(b), 39 DCR 3824; Mar. 14, 1995, D.C. Law 10-203, § 2(b), 41 DCR 7707; Mar. 14, 1995, D.C. Law 10-205, § 2(a), 41 DCR 7712; Mar. 21, 1995, D.C. Law 10-231, § 2(b), 42 DCR 15; Mar. 23, 1995, D.C. Law 10-247, § 2(b), 42 DCR 457; Apr. 18, 1996, D.C. Law 11-110, § 7(a), 43 DCR 530; July 24, 1998, D.C. Law 12-139, § 2(a), 45 DCR 2975; Mar. 10, 2004, D.C. Law 15-88, § 2(c), 50 DCR 10999; July 8, 2004, D.C. Law 15-172, § 2(b), 51 DCR 4938; Mar. 16, 2005, D.C. Law 15-237, § 2(b), 51 DCR 10593; Mar. 6, 2007, D.C. Law 16-219, § 2(c), 53 DCR 10211; Mar. 6, 2007, D.C. Law 16-220,§ 2(a), 53 DCR 10216; Mar. 6, 2007, D.C. Law 16-221, § 2, 53 DCR 10218; Mar. 6, 2007, D.C. Law 16-228, § 2(b), 53 DCR 10244; Mar. 26, 2008, D.C. Law 17-131, § 102(b), 55 DCR 1659; Mar. 20, 2009, D.C. Law 17-306, § 2(a), 56 DCR 23; Mar. 25, 2009, D.C. Law 17-353, §§ 146(a), 147, 148, 309(a), 56 DCR 1117; July 7, 2009, D.C. Law 18-11, § 2(a), 56 DCR 3602; July 7, 2009, D.C. Law 18-12, § 2(a), 56 DCR 3605; July 7, 2009, D.C. Law 18-13, § 2(b), 56 DCR 3608; July 7, 2009, D.C. Law 18-14, § 2(b), 56 DCR 3613; July 7, 2009, D.C. Law 18-15, § 2(c), 56 DCR 3616; July 7, 2009, D.C. Law 18-16, § 2, 56 DCR 3620; July 7, 2009, D.C. Law 18-17, § 2(a), 56 DCR 3622; July 7, 2009, D.C. Law 18-18, § 2(b), 56 DCR 3624; July 7, 2009, D.C. Law 18-19, § 2(b), 56 DCR 3629; Mar. 14, 2012, D.C. Law 19-104, § 2(a), 59 DCR 435; Oct. 22, 2012, D.C. Law 19-185, § 2(a), 59 DCR 9454.)

Section references. — This section is referenced in § 2-1801.02, § 3-1206.21, § 3-1206.31, § 3-1206.41, § 7-733.02, § 31-3251, § 47-2885.02, § 48-843.02, and § 48-844.02.

Effect of amendments.

The 2012 amendment by D.C. Law 19-185 substituted "the initiating, modifying, or discontinuing a drug therapy in accordance with a duly executed collaborative practice agreement; and the maintenance of proper records" for "and the maintenance of proper records therefor" in (11)(A); redesignated (11)(B)(i) and (11)(B)(ii) as (11)(B)(ii) and (11)(B)(iii), respectively; and added (11)(B)(i).

Legislative history of Law 19-185. — Law 19-185, the "Collaborative Care Expansion Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-657. The Bill was adopted on first and second readings on June 5, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 31, 2012, it was assigned Act No. 19-438 and transmitted to Congress for its review. D.C. Law 19-185 became effective on Oct. 22, 2012.

Subchapter II. Establishment of Health Occupation Boards and Advisory Committees; Membership; Terms.

§ 3-1202.08. Board of Pharmacy.

(a) There is established a Board of Pharmacy to consist of 7 members appointed by the Mayor.

(b)(1) The Board shall regulate the practice of pharmacy and the practice of pharmaceutical detailing.

(2) The Board is authorized to:

(A) Establish a code of ethics for the practice of pharmaceutical detailing; and

(B) Collect information from licensed pharmaceutical detailers relating to their communications with licensed health professionals, or with employees or representatives of licensed health professionals, located in the District.

(c) Of the members of the Board, 5 shall be pharmacists licensed in the District and 2 shall be consumer members.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed under this section, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years.

(f) An individual licensed to practice pharmacy pursuant to this chapter may administer immunizations and vaccinations only if certified to do so by the Board and only pursuant to a written protocol and valid prescription or standing order of a physician.

(g) The Board and the Board of Medicine shall jointly develop and promulgate regulations to implement and regulate the administration of vaccinations and immunizations by pharmacists and to authorize pharmacists certified to administer vaccinations and immunizations to administer emergency anaphylactic reaction treatment pursuant to an approved physician-pharmacist protocol.

(h)(1) A licensed pharmacist may initiate, modify, or discontinue a drug therapy regimen pursuant to a collaborative practice agreement with a licensed physician, or, pursuant to § 3-1204.12, other health practitioner.

(2) The Board and the Board of Medicine shall jointly develop and issue regulations governing the implementation and use of collaborative practice agreements between a licensed pharmacist and a licensed physician. At minimum, the regulations shall:

(A) Require that all collaborative practice agreements include:

(i) Specification of the drug therapy to be provided and any tests that may be necessarily incident to its provision;

(ii) The conditions for initiating, modifying, or discontinuing a drug therapy; and

(iii) Directions concerning the monitoring of a drug therapy, including the conditions that would warrant a modification to the dose, dosage regime, or dosage form of the drug therapy; and

(B) Establish policies and procedures for approving, disapproving, and revoking collaborative practice agreements.

(Mar. 25, 1986, D.C. Law 6-99, § 208, 33 DCR 729; Mar. 26, 2008, D.C. Law 17-131, § 102(c), 55 DCR 1659; Mar. 20, 2009, D.C. Law 17-306, § 2(b), 56 DCR 23; Oct. 22, 2012, D.C. Law 19-185, § 2(b), 59 DCR 9454.)

Section references. — This section is referenced in § 1-523.01 and § 3-1207.42.

Effect of amendments.

The 2012 amendment by D.C. Law 19-185 added (h).

Legislative history of Law 19-185. — See note to § 3-1201.02.

Subchapter IV. General Provisions Relating to Health Occupation Boards.

§ 3-1204.12. Collaborative practice agreements; expansion.

In addition to the authority granted by this chapter to physicians and pharmacists to enter into collaborative practice agreements, the Mayor may authorize, in consultation with the relevant health occupation board, through rulemaking, additional licensed health practitioners to enter into collaborative practice agreements with pharmacists.

(Mar. 25, 1986, D.C. Law 6-99, § 412, as added Oct. 22, 2012, D.C. Law 19-185, § 2(c), 59 DCR 9454.)

Section references. — This section is referenced in § 3-1202.08.

Effect of amendments. — The 2012 amendment by D.C. Law 19-185 added this section.

Legislative history of Law 19-185. — See note to § 3-1201.02.

Subchapter V. Licensing, Registration, or Certification of Health Professionals.

§ 3-1205.07. Reciprocity and endorsement.

(a) For the purposes of this section, the term:

(1) "Endorsement" means the process of issuing a license, registration, or certification to an applicant who is licensed, registered, certified, or accredited by an accrediting association or a state board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the licensing, registration, certification, or accreditation to the standards for that profession set forth in this chapter and who has continually remained in good standing with the licensing, registering, certifying, or accrediting association or state board from the date of licensure, registration, certification, or accreditation until the date of licensure, registration, or certification in the District.

(2) "Reciprocity" means the process of issuing a license, registration, or certification to an applicant who is licensed, registered, or certified and in good standing under the laws of another state with requirements that, in the opinion of the Board, were substantially equivalent at the time of licensure, registration, or certification to the requirements of this chapter, and that state admits health professionals licensed, registered, or certified in the District of Columbia in a like manner.

(b) Each board shall issue a license, registration, or certification to an applicant who qualifies by reciprocity or endorsement and who pays the applicable fees established by the Mayor.

(Mar. 25, 1986, D.C. Law 6-99, § 507, 33 DCR 729; Mar. 23, 1995, D.C. Law 10-247, § 2(m), 42 DCR 457; Apr. 29, 1998, D.C. Law 12-86, § 403, 45 DCR

1172; July 18, 2009, D.C. Law 18-26, § 2(e)(7), 56 DCR 4043; Sept. 26, 2012, D.C. Law 19-171, § 30(b)(1), 59 DCR 6190.)

Section references. — This section is referenced in § 3-1205.06.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

§ 3-1205.09. Scope of license, registration, or certification.

(a)(1) A person licensed, registered, or certified under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license, registration, or certification is effective.

(2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.

(b) An individual who fails to renew a license, registration, or certification to practice a health occupation shall be considered to be unlicensed, unregistered, or uncertified and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation.

(Mar. 25, 1986, D.C. Law 6-99, § 509, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(10), 56 DCR 4043; Sept. 26, 2012, D.C. Law 19-171, § 30(a), 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a technical correction to D.C. Law 18-26, § 2(a)(2) which did not affect this section as codified.

Legislative history of Law 19-171. — See note to § 3-1205.07.

§ 3-1205.10. Term and renewal of licenses, registrations, or certifications.

(a) A license, registration, or certification expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure, registration, or certification of not more than 3 years.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses, registrations, or certifications under this section; provided, that the Mayor shall:

(1) Require that any continuing-education requirements for the practice of medicine include instruction on pharmacology, which shall:

(A) Be evidence-based;

(B) Provide physicians with information regarding the cost-effectiveness of pharmacological treatments; and

(C) Not be financially supported by any pharmaceutical company or manufacturer;

(2) Establish continuing-education requirements for the practice of pharmaceutical detailing, in accordance with § 3-1207.44;

(3) Establish continuing education requirements for nursing home administrators that include instruction on one or more of the following topics:

(A) Staff management;

(B) Continuity in assigning the same nursing staff to the same residents as often as practicable;

(C) Creating a resident-centered environment;

(D) Activities of daily living and instrumental activities of daily living;

(E) Wound care;

(F) Pain management;

(G) Prevention and treatment of depression;

(H) Prevention of pressure ulcers;

(I) Urinary incontinence management;

(J) Discharge planning and community transitioning;

(K) Fall prevention;

(L) Geriatric social services and individual competency; and

(M) Behavior management; and

(4)(A) Except as provided in subsection (b-1) of this section, require that any continuing education requirements for the following practices include 3 credits of instruction on the Human Immunodeficiency Virus ("HIV") and the Auto Immune Deficiency Syndrome ("AIDS") in accordance with subparagraph (B) of this paragraph:

(i) The practice of medicine;

(ii) The practice of registered nursing;

(iii) The practice of practical nursing;

(iv) The practice by nursing assistive personnel; and

(v) The practice of physician assistants.

(B) The instruction required by subparagraph (A) of this paragraph shall, at a minimum, provide information on one or more of the following topics:

(i) The impact of HIV/AIDS on populations of differing ages, particularly the senior population;

(ii) The impact of HIV/AIDS on populations of different racial and ethnic backgrounds;

(iii) The general risk to all individuals in the District of HIV infection;

(iv) How to inform all patients about HIV/AIDS, discuss HIV/AIDS with all patients, and appropriately monitor all patients for potential exposure to HIV and AIDS; or

(v) The use, benefits, and risks associated with pre- and post-exposure prophylaxis treatment.

(b-1) The Mayor may:

(1) In consultation with the Board of Medicine, waive by rule the requirements of subsection (b)(4) of this section for an individual who can prove to the satisfaction of the Board of Medicine that he or she did not see patients in a clinical setting in the District during the previous licensing cycle;

(2) With recommendations by the Department of Health, expand the continuing education requirements for any licensed health professional to specifically include instruction on HIV and AIDS; and

(3) After December 31, 2018, with the advice of the relevant licensing boards, waive by rule the requirements of subsection (b)(4) of this section for one or more of the practices listed in subsection (b)(4) of this subsection, as he or she considers appropriate.

(c) At least 30 days before the license, registration, or certification expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, registrant, or person certified by first class mail to the last known address of the licensee, registrant, or person certified a renewal notice that states:

(1) The date on which the current license, registration, or certification expires;

(2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license, registration, or certification expires; and

(3) The amount of the renewal fee.

(d) Before the license, registration, or certification expires, the licensee, registrant, or person certified may renew it for an additional term, if the licensee:

(1) Submits a timely application to the board;

(2) Is otherwise entitled to be licensed, registered, or certified;

(3) Pays the renewal fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license, registration, or certification renewal.

(e) Each board shall renew the license, registration, or certification of each licensee, registrant, or person certified who meets the requirements of this section.

(Mar. 25, 1986, D.C. Law 6-99, § 510, 33 DCR 729; Mar. 26, 2008, D.C. Law 17-131, § 102(f), 55 DCR 1659; Mar. 25, 2009, D.C. Law 17-353, § 229, 56 DCR 1117; July 18, 2009, D.C. Law 18-26, § 2(e)(11), 56 DCR 4043; Apr. 29, 2010, D.C. Law 18-145, § 2(a), 57 DCR 1834; July 13, 2012, D.C. Law 19-156,§ 2, 59 DCR 5595.)

Section references. — This section is referenced in § 3-1206.32.

Effect of amendments.

D.C. Law 19-156, in subsec. (b), deleted "and" from the end of par. (2), substituted "; and" for a period the end of par. (3)(M), and added par. (4); and added subsec. (b-1).

Legislative history of Law 19-156. — Law 19-156, the "HIV/AIDS Continuing Education Requirements Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-510, which was referred to the Committee on Health. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-363 and transmitted to both Houses of Congress for its review. D.C. Law 19-156 became effective on July 13, 2012.

§ 3-1205.18. Voluntary limitation or surrender of a license, registration, or certification by impaired health professional.

(a)(1) Any license, registration, or certification issued under this chapter may be voluntarily limited by the licensee, registrant, or person certified either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee, registrant, or person certified and the board.

(2) During the period of time that the license, registration, or certification has been limited, the licensee, registrant, or person certified shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee, registrant, or person certified to do 1 or more of the following:

(A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a health professional acceptable to the board for a specified period of time.

(b)(1) Any license, registration, or certification issued under this chapter may be voluntarily surrendered to the board by the licensee, registrant, or person certified either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee, registrant, or person certified and the board.

(2) During the period of time that the license, registration, or certification has been surrendered, the individual surrendering the license, registration, or certification shall not practice, attempt to practice, or offer to practice the health occupation for which the license, registration, or certification is required, shall be considered as unlicensed, unregistered, or uncertified, and shall not be required to pay the fees for the license, registration, or certification.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license, registration, or certification under this section shall be confidential.

(Mar. 25, 1986, D.C. Law 6-99, § 518, 33 DCR 729; July 18, 2009, D.C. Law 18-26, § 2(e)(18), 56 DCR 4043; Sept. 26, 2012, D.C. Law 19-171, § 30(b)(2), 59 DCR 6190.)

Section references. — This section is referenced in § 3-1205.14 and § 3-1251.09.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 substituted "unlicensed, unregistered, or uncertified" for "unlicensed" in (b)(2).

Legislative history of Law 19-171. — See note to § 3-1205.07.

§ 3-1205.23. Suspension of license, registration, or certification during incarceration for felony or misdemeanor conviction.

Emergency legislation.

For temporary addition of D.C. Law 6-99, § 524, concerning Council approval of massage therapy regulations directed at licensed therapist facilities, see § 502 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

Chapter 13. Lottery and Charitable Games Control Board.

Sec.

§ 3-1313. Operation of lottery.

The Board shall operate and conduct a lottery and shall determine the number of times a lottery shall be held each year, the form and price of tickets, and the number and value of prizes to winning participants, determined in a manner and on a basis designated by the Board. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid according to regulations established by the Board under § 3-1312. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents.

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Apr. 8, 2011, D.C. Law 18-370, § 762, 58 DCR 1008; May 31, 2012, D.C. Law 19-128, § 2, 59 DCR 2254.)

Effect of amendments.

D.C. Law 19-128 rewrote the section, which formerly read:

"(a) A lottery or lottery game means both games of skill and games of chance that are operated by and for the benefit of the District of Columbia by the Board; provided, that:

"(1) If the games of skill and games of chance are offered via the Internet, any technology employed for the play shall confirm the play to be at all times within the District; provided further, that the restriction shall not apply to the conduct of fantasy sports and sweepstakes-style games if such games are lawful; and

"(2) No method, media, or device for play of the games of skill and games of chance shall violate An Act To prohibit transportation of gambling devices in interstate and foreign commerce, approved January 2, 1951 (15 U.S. C. § 1171 et seq.), or any other federal law.

"(b) The Board shall operate and conduct a lottery and shall determine the number of times a lottery shall be held each year, the form and price of tickets therefor, the number and value of prizes to winning participants, determined in a manner and on a basis designated by the Board. The proceeds of the sale of tickets shall be deposited in the Fund from which prizes shall be paid according to regulations established by the Board under § 3-1312. The Board may provide by regulation for the payment of prizes to winners directly by licensed agents.

"(c) The Board, through the Chief Financial Officer, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the

provisions of this section, and may establish which games may be offered and additional terms and conditions for the conduct of the games not inconsistent with subsection (a) of this section, including the percentage of wagered amounts to be retained by the Board, minimum and maximum wagers, and time limitations for the games."

Emergency legislation.

For temporary (90 day) repeal of section 3 of D.C. Law 19-332, see § 7007 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-128, see § 7007 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

Legislative history of Law 19-128. — Law 19-128, the "Lottery Amendment Repeal Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-474, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 18, 2012, it was assigned Act No. 19-322 and transmitted to both Houses of Congress for its review. D.C. Law 19-128 became effective on May 31, 2012.

Editor's notes. — Section 3 of D.C. Law 19-128 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 3 of D.C. Law 19-128 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan. D.C. Law 19-128, § 3, was repealed by D.C. Law 19-168, § 7007.

Section 7016 of D.C. Law 19-168 provided that Sections 7001, 7004, 7007, 7009, 7011, and 7015 of the act shall apply as of June 19, 2012.

§ 3-1328. Persons ineligible for suppliers' license.

(a) The Board, in its discretion, may determine the following persons not to be eligible to receive a suppliers' license: A person convicted of a felony who either has not received a pardon or has not been released from parole or probation for at least 5 years; a person who is or has been a professional gambler or gambling promoter; a public officer or employee; or a business in which a person disqualified under provisions of this section is employed or active or in which a person is married to, in a domestic partnership with, or related in the 1st degree of kinship to, such person who has an interest of more than 10 percent in the business.

(b) For the purposes of this section, the term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(Mar. 10, 1981, D.C. Law 3-172, § 4, 27 DCR 4736; Sept. 12, 2008, D.C. Law 17-231, § 11(b), 55 DCR 6758; Sept. 26, 2012, D.C. Law 19-171, § 31, 59 DCR 6190.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 added a comma following "kinship to" in (a).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on Sept. 26, 2012.

CHAPTER 13A. MOTOR VEHICLE THEFT PREVENTION COMMISSION.

§ 3-1354. Powers of Commission.

Section references. — This section is referenced in § 3-1357 and § 3-1358.

Emergency legislation. — For temporary amendment of (8), see § 503(a) of the Omnibus

Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-1357. Payments into Fund.

Emergency legislation. — For temporary repeal of section, see § 503(b) of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

§ 3-1358. Expenditures from Fund.

Section references. — This section is referenced in § 3-1354.

Emergency legislation. — For temporary amendment of section, see § 503(c) of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).